

***United States Court of Appeals
for the Second Circuit***



JOINT APPENDIX

ORIGINAL
WITH PROOF
OF SERVICE

76-1488

UNITED STATES COURT OF APPEALS

for the

SECOND CIRCUIT

B
P/S

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

-against-

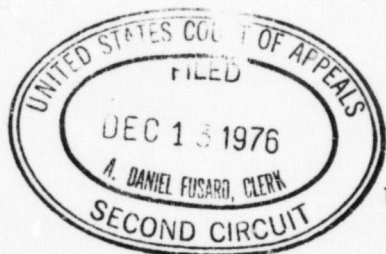
ROBERT ERCOLI,

Defendant-Appellant.

ON APPEAL FROM A JUDGMENT OF THE UNITED STATES
DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

APPENDIX

BIONDO & SEGELBAUM
Attorneys for Defendant-Appellant
73 Croton Avenue
Ossining, New York 10562
(914) 941-0175



THOMAS J. CAHILL
United States Attorney for the
Southern District of New York
Attorney for Plaintiff-Appellee
One St. Andrew's Plaza
New York, N.Y. 10007
(212) 791-0066

(5897A)

PAGINATION AS IN ORIGINAL COPY

INDEX

| | <u>Page</u> |
|---------------------------------|-------------|
| DOCKET SHEET | A-1 |
| INDICTMENT | A-3 |
| PLAINTIFF'S BILL OF PARTICULARS | A-21 |
| TRANSCRIPT OF TRIAL | |

GOVERNMENT WITNESSES

| | | |
|----------------------|----------|-------|
| JOHN PINDT | DIRECT | A-26 |
| | CROSS | A-32 |
| DAVID C. BELL | DIRECT | A-36 |
| | CROSS | A-38 |
| WILLIAM BELL | DIRECT | A-39 |
| | CROSS | A-49 |
| | REDIRECT | A-67 |
| | RECROSS | A-71 |
| ANTHONY F. VETERAN | CROSS | A-72 |
| DENNIS WALSH | DIRECT | A-75 |
| JOHN JOSEPH BOYLE | DIRECT | A-81 |
| | CROSS | A-83 |
| THOMAS A. OWENS, JR. | DIRECT | A-87 |
| | CROSS | A-88 |
| THOMAS G. HARTMANN | DIRECT | A-89 |
| | CROSS | A-94 |
| RICHARD A. MAIER | DIRECT | A-100 |
| ROBERT J. BROWN | DIRECT | A-104 |
| | CROSS | A-105 |
| | REDIRECT | A-108 |
| RICHARD W. DOWNEY | CROSS | A-109 |

| | | <u>Page</u> |
|--|----------|-------------|
| NICHOLAS C. RUSSO | REDIRECT | A-111 |
| | RECROSS | A-111 |
| JEANNE C. COLE | DIRECT | A-113 |
| <u>DEFENDANT'S WITNESSES</u> | | |
| JOSEPH P. GOREY, JR. | DIRECT | A-117 |
| | CROSS | A-120 |
| RALPH GAROFANO | DIRECT | A-121 |
| WILLIAM HALSTEAD | DIRECT | A-122 |
| | CROSS | A-124 |
| ROBERT M. ERCOLI | DIRECT | A-125 |
| <u>GOVERNMENT EXHIBITS</u> | | |
| 3A: MINUTES OF PBA MEETING OF OCTOBER 14, 1968 | | A-135 |
| 3C: MINUTES OF PBA MEETING OF JANUARY 12, 1972 | | A-137 |
| 3E: MINUTES OF PBA MEETING OF MAY 19, 1972 | | A-140 |
| 20: LIST OF EARNINGS BY POLICE OFFICERS | | A-143 |
| MEMORANDUM AND DECISION | | A-147 |
| JUDGMENT AND PROBATION/COMMITMENT ORDER | | A-153 |

A-2
DOCKET SHEET

| IV. PROCEEDINGS (continued) | | V. EXCLUDABLE DELAY | | | |
|-----------------------------|---|---------------------|-----|-----|-----|
| | | (a) | (b) | (c) | (d) |
| 5-16-76 | Filed Govt's request to charge | | | | |
| 5-22-76 | Filed Govt's proposed examination of prospective jurors | | | | |
| 5-29-76 | Filed Govt's supplemental request to charge | | | | |
| 5-29-76 | Filed Deft ERcoli's requests to charge | | | | |
| 6-1-76 | Deft (atty present) Jury Trial begun | | | | |
| 6-2-76 | Trial cont'd - et al dismissed on consent | | | | |
| 6-23-76 | Trial cont'd | | | | |
| 6-24-76 | " " | | | | |
| 6-25-76 | Trial cont'd Jury verdict Deft found <u>Guilty</u> on cts 1, 2 & 3 PSI ordered Sentence adj to 9-13-76 R.O.R.....Brieant, J. | | | | |
| 7-1-76 | Filed Deft Robert ERcoli's proposed examination of prospective jurors | | | | |
| 8-2-76 | Filed Deft's Notice of Motion & Affidvt for an order pursuant to Rule 29(c) of the F.R.Cr.P. granting the Deft a Judgment of Acquittal on Counts one, two and three of the Indictment. | | | | |
| 8-18-76 | Filed transcript of record of proceedings, dated 6-24-76 | | | | |
| 8-25-76 | Filed Deft's Memorandum of Law in support of Deft's post-trial motion for judgment of acquittal. | | | | |
| 9-1-76 | Filed Govt's Memorandum of Law in opposition to Deft's motion for a judgment of acquittal. | | | | |
| 9-13-76 | Filed memorandum and order #45073 that the defts motion for acquittal in all respects is deniedSo Ordered BRIEANT, J. n/ | | | | |
| 10-6-76 | Filed Judgment & Commitment Order- The Deft is hereby committed to the custody of the Atty General for imprisonment for the maximum period authorized by law (Five (5) YEARS) on COUNTS #1, 2, and #3 and for Study as described in 18, U.S.C. Section 4205(d), the results of such study to be furnished this Court within THREE (3) MONTHS, unless the COURT grants further time not to exceed THREE (3) MONTHS, whereupon the Deft shall be returned to this COURT and the sentence of imprisonment herein imposed shall be subject to modification in accordance with 18, U.S.C. Sec. 4205(c). Sentence is stayed pending appeal. Deft is continued on his own recognizance pending appeal....BRIEANT, J. | | | | |
| 10-7-76 | Filed Deft's Consent to Change Atty to Biondo & Segelbaum, of No. 73 Croton Avenue, Ossining, New York. So Ordered..Brieant, J. | | | | |
| 10-15-76 | Filed Deft's Notice of Appeal to the U.S.C.A. for the 2nd Circuit from the Judgment entered on 10-10-76. (n/n) | | | | |

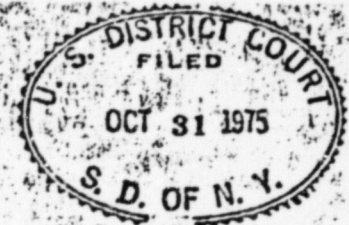
A TRUE COPY
RAYMOND E. BUECHART, Clerk

By M. J. L.
Deputy Clerk

| Interval | Start Date | End Date | Ln. | Total |
|---------------|------------|----------|------|-------|
| (per Sec. 11) | | | Code | Days |

A-3
INDICTMENT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



UNITED STATES OF AMERICA

- v -

ROBERT ERCOLI,
GERARD HOLLEY and Ralph Purdy,
RALPH PURDY,

Defendants.

INDICTMENT

75 Cr.

75 CRIM. 1040

The Grand Jury charges:

INTRODUCTION

1. During the period from January 1, 1957 to the date of filing of this Indictment the defendants ROBERT ERCOLI, GERARD HOLLEY and RALPH PURDY were members of the Police Department of the Town of Greenburgh (hereinafter the "Police") and of the Patrolman's Benevolent Association of the Police (hereinafter the "P.B.A.").

2. During the period from December 15, 1970 to the date of the filing of this indictment the defendant ROBERT ERCOLI was the lieutenant in charge of the traffic safety division of the Police.

3. During the period from March, 1967 through to the date of the filing of this indictment, the defendant RALPH PURDY has been the President of the P.B.A.

4. Technicon Instruments Corporation (hereinafter "Technicon") was, at all times relevant to this indictment, a corporation engaged in computerized medical research whose principal plant and office building was located at 511 Benedict Avenue in Tarrytown, New York.

A-4
INDICTMENT

PC: 98
-1014

5. Supermarkets General Corporation (hereinafter "Supermarkets General") was, at all times relevant to this indictment, a corporation whose principal offices were located at 301 Blair Road, Woodbridge, New Jersey operating a chain of retail food stores including a store located at 371 Central Avenue, Hartsdale, New York (hereinafter the "Pathmark Store").

6. The New York Telephone Company (hereinafter the "Telephone Company") was, at all times relevant to this indictment, a company providing telephone service for the State of New York. In the Town of Greenburgh, the Telephone Company operated an office building located at 10 County Center Road at which was located the district offices for the Telephone Company's Westchester Area, which include the counties of Westchester, Putnam, and Rockland (hereinafter "10 County Center Road"). Also, the Telephone Company operated in the Town of Greenburgh two garages, located at 455 Knollwood Road (hereinafter the "Knollwood garage") and at 40 Washington Avenue (hereinafter the "Washington Avenue garage").

7. During the period from approximately July, 1971 to February, 1972, there was a general strike (hereinafter "the Strike") against the Telephone Company conducted by the members of the Communications Workers of America (hereinafter "the union").

8. During portions of the period from January 1, 1967 to January 1, 1974, the Police worked as security officers at the Telephone Company, Technicon, and the Pathmark Store and other private employers. (hereinafter the "off-duty jobs").

A-5
INDICTMENT
COUNT ONE

The Grand Jury further charges:

9. From on or about January 1, 1967, up to and including the filing of this indictment, in the Southern District of New York and elsewhere, the defendants ROBERT ERCOLI, and GERALD HOLLEY, unlawfully, wilfully and knowingly did combine, conspire, confederate and agree together and with each other, and with others to the Grand Jury known and unknown including RALPH PURDY, named as a co-conspirator but not as a defendant herein, to defraud the United States.

10. It was a part of said conspiracy that the defendants ROBERT ERCOLI, and GERARD HOLLEY and their co-conspirators would and did agree to defraud the United States and the Internal Revenue Services, United States Treasury Department of its lawful functions of determining the taxable income earned by Police who held off-duty jobs and collecting taxes, including taxes lawfully to be withheld from salaries paid to Police who held off-duty jobs, by denying to the Internal Revenue Service truthful and accurate information pertaining to the personal income of Police who held off-duty jobs.

12. Among the means whereby said defendants would and did carry out said conspiracy were the following:

(a) by resolutions passed at meetings of the P.B.A. the Police would set "tax free" hourly rates of pay to be charged for off-duty jobs.

A-6
INDICTMENT

(b) The traffic-safety division of the Police would be designated by the P.B.A. to administer the off-duty jobs by contacting prospective employers, by providing a sign-up system for the Police, and by picking up and distributing the wages paid by off-duty employers.

(c) Payments for off-duty jobs would be made either in cash or by cheque without personal income taxes being withheld.

13. In furtherance of and to effect the objects of said conspiracy, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

(a) On or about October 14, 1968, a rate of "\$5.00 (tax free)" per hour was approved as the wage to be charged for off-duty jobs at a meeting of the P.B.A.

(b) During the year 1969, the defendants ROBERT ERCOLI and GERARD HOLLEY and approximately seventy-three co-conspirators who were also Police worked as security guards for Technicon.

(d) On or about July 13, 1971, the defendant ROBERT ERCOLI had a conversation concerning the hiring of Police as off-duty security guards with three men at 10 County Center Road.

A-7
INDICTMENT

(e) On or about July 13, 1971, the defendant ROBERT ERCOLI told a man that the Telephone Company would pay "five dollars cash tax free" for security guards.

(f) On numerous occasions during the period from July, 1971 to February, 1972, the defendant ROBERT ERCOLI picked up at 10 County Center Road the weekly wages to be paid the Police working for the Telephone Company.

(g) On numerous occasions during the period from approximately July, 1971 to February, 1972 the defendant ROBERT ERCOLI removed and kept \$.25 for each hour worked by the Police from the cash wages received from the Telephone Company.

(h) On or about January 12, 1972, rates of "\$5.50, tax free, \$6.25 taxed" per hour were approved as the wages to be charged for off-duty jobs at a meeting of the P.B.A.

(i) On or about January 12, 1972 the defendant ROBERT ERCOLI was authorized by the P.B.A. to receive \$.25 per hour for administering off-duty jobs.

(k) In or about May, 1972, the defendant GERARD HOLLEY has conversation with a man in which it was agreed the Police working an off-duty job at the Pathmark Store would be paid by cheque at a rate of \$6.00 per hour.

(l) On or about May 19, 1972, a rate of \$6.00 per hour was approved as the wage to be charged for the off-duty job at the Pathmark Store by a meeting of the P.B.A.

A-8
INDICTMENT

(Title 18, United States Code, Section 371.)

COUNTS TWO THROUGH FOUR

The Grand Jury further charges:

14. On or about August 11, 1975, in the Southern District of New York, ROBERT ERCOLI, the defendant, having duly taken an oath as a witness that he would testify truthfully before a grand jury of the United States of America, duly impaneled and sworn in the United States District Court for the Southern District of New York, and inquiring for that District, unlawfully, wilfully and knowingly and contrary to said oath did make false material declarations to said grand jury.

15. At the time and place aforesaid, the said grand jury was conducting an investigation pursuant to Sections 371 and 2 of Title 18, United States Code to determine whether the Police were conspiring to defraud the United States by arranging to obtain income from off-duty jobs in the manner described in Paragraph Twelve of Count One hereof, and by filing false and fraudulent personal income tax returns, in that income from off-duty jobs was not reported, and whether certain corporations aided and abetted the Police in said conspiracy.

COUNT TWO

16. It was material to said inquiry to ascertain whether the defendant ROBERT ERCOLI had been authorized by the P.B.A. prior its meeting on January 12, 1972 to remove \$.25 per hour as an administrative fee from the cash wages earned by the Police in the off-duty job at the Telephone Company.

INDICTMENT

014

17. At the time and place aforesaid ROBERT ERCOLI, the defendant, appearing as a witness under oath did testify falsely with respect to the aforesaid material matters as follows:

Q. You tell me how the minutes are incorrect.

A. On January 12, 1972, page 200 of the minutes. Can I read this? This is what you have, you just showed me.

Q. The Grand Jury is familiar. Hold it one second. What's wrong with the minutes, Mr. Ercoli?

A. "Brother Ercoli stated a new side job was coming up and if the membership wanted to raise the hourly rate."

Now, there was no new side job coming up in '72. The last side job that I handled, that I went before the PEA for was the phone company. And that strike ended, I believe it was in February of '72. I went before the PEA in '71, in 1971, March 10, 1971, page 181 of the PEA minutes.

"Brother Ercoli also informed" -- there's a lot of things about a new ambulance and federal grants I was talking about -- "also informed the members any TD member requesting off duty work" -- yes, okay," Brother Ercoli also informed the members that any P.B.A. members requesting off duty work should notify the traffic division on their availability and a new job, a new job would be opening up." This is when that 25¢ an hour came up, was in 1971. Not in 1972. This is when the rate was set by the PEA, by the membership and it makes no mention whatsoever in this minutes.

* * * * *

BEST COPY AVAILABLE

INDICTMENT

Q. Now, the next time, then you would agree with me, that the next time that the rate was changed as it appears in the minutes, was in January, 1972. The rate apparently from the period 1968 through 1972 was \$5 an hour, is that correct?

A. No, it's incorrect.

Q. Because of the omission in the March 10 minutes?

A. That's right.

Q. It's your testimony that on March 10, 1971, the rate was changed to \$5.25 an hour?

A. That rate was for the Whitmeyer job. Now, I don't know exactly what the rate was set at. But I believe it was \$5.25 okay?

Q. \$5.00 going to the men who worked the job, and 25¢ to you for administering it?

A. This is when the 25¢ business came up. It was 1971. It was at the March meeting, not at this meeting.

Q. The 25¢ an hour then, was approved by the men in March, 1971?

A. That's correct.

* * * * *

Q. And those minutes are erroneous in that the 25¢ an hour was voted on in March, 1971 rather than in January '72, correct?

A. The whole thing is erroneous about me stating that a new side job was coming up. Because there wasn't a new side job. What job are they talking about? I would like to know.

Q. But the 25¢ an hour was not voted on in the January meeting. It was voted on in the March meeting?

A. It was voted on prior to Whitmeyer Brothers.

* * * * *

INDICTMENT

Q. You were present at the January, '72 meeting?

A. Yes, there were other things that I spoke on.

Q. Were you present when a motion was made to compensate you 25¢ an hour?

A. No, sir.

Q. As far as you know, that motion was not made on that date, correct?

A. I'll go one step further. I know that that motion was made prior to the Whitmeyer job and not on the date shown in those minutes.

(Title 18, United States Code, Section 1623.)

COUNT THREE

The Grand Jury further charges:

18. It was material to said inquiry to ascertain whether the defendant ROBERT ERCOLI went to the offices of the Telephone Company at 10 County Center Road on or about July 13, 1971 and at that location had a meeting with Thomas Owens and Richard Lillis in which the defendant ROBERT ERCOLI negotiated the hiring of Police by the Telephone Company as security guards during the Strike.

19. At the time and place aforesaid ROBERT ERCOLI, the defendant, appearing as a witness under oath did testify falsely with respect to the aforesaid material matters as follows:

"Q. Fine. Let's go to the telephone company job, in 1971, in July, 1971. The police were hired to do security work for the telephone company, correct?

A. July -- according to this police report, it was on July 13.

A-12
INDICTMENT

Q. But you then never met with Hartman and Lillis or Owens, and Owens discussing the hiring of Greenburg police officers?

A. I don't recall meeting with them discussing the hiring of police officers. I met with these people at least once every day and sometimes twice a day.

Q. As the strike went on?

A. Yes, and as problems developed.

Q. But I'm asking you when and how essentially the Greenburg police were hired, and from your testimony to this point, the hiring was done between yourself and these two telephone company officials at your office and not between yourself and Mr. Owens or Mr. Hartman and Mr. Lillis, is that right?

A. Hartman and Owens, you can exclude. I know definitely they were not the two that were in my office.

Q. Was Mr. Lillis one of the ones that came to your office?

A. Again, Mr. Cooney, I don't recall.

* * * * *

INDICTMENT

Q. And the conversation in which the Greenburg police were hired by the New York Telephone Company took place in your office?

A. Yes.

Q. And not at 10 County Center Road?

A. No.

Q. Your recollection is clear on that?

A. I'm almost positive, Mr. Cooney, that this is where it transpired.

Q. Did Chief Halstead ever tell you to go over to 10 County Center Road for the purpose of seeing whether or not the telephone company would be interested in hiring police officers on an off-duty basis?

A. No, this all transpired that day.

* * * * *

Q. So your recollection is that Mr. Owens, Mr. Hartman -- you never met with Mr. Owens, Mr. Hartman, Mr. Lillis at the telephone company for the purpose of having them hire Greenburg police?

A. To my recollection, no.

Again, you keep on throwing Lillis in there. I'm not too sure about Lillis. But Owens and Hartman definitely not.

(Title 18, United States Code, Section 1623.)

* * * * *

INDICTMENT
COUNTS SIX AND SEVEN

The Grand Jury further charges:

27. On or about August 8, 1975, in the Southern District of New York, RALPH PURDY, the defendant, having duly taken an oath as a witness that he would testify truthfully before a grand jury of the United States of America, duly impaneled and sworn in the United States District Court for the Southern District of New York, and inquiring for that District, unlawfully, wilfully and knowingly and contrary to said oath did make false material declarations to said grand jury.

28. At the time and place aforesaid, the said grand jury was conducting an investigation pursuant to Sections 371 and 2 of Title 18, United States Code to determine whether the Police were conspiring to defraud the United States by arranging to obtain income from off-duty jobs in the manner described in Paragraph Twelve of Count One hereof, and by filing false and fraudulent personal income tax returns, in that income from off-duty jobs was not reported, and whether certain corporations aided and abetted the Police in said conspiracy.

COUNT SIX

29. It was material to said inquiry to ascertain whether the defendant RALPH PURDY had a conversation with other Police officers prior to the meeting of the P.B.A. on January 12, 1972 in which the defendant RALPH PURDY asked that a motion be made at the P.B.A. meeting that the defendant ROBERT ERCOLI receive \$.25 per hour as an administrative fee for handling off-duty jobs.

30. At the time and place aforesaid RALPH PURDY, the defendant, appearing as a witness under oath did testify falsely with respect to the aforesaid material matters as follows:

INDICTMENT

Q. Your recollection is clear that you opposed the payment to Ercoli of twenty-five cents an hour?

A. Yes, at the preliminary discussions.

Q. Pardon me.

A. At that preliminary discussion I mentioned.

Q. With Ercoli?

A. Yes.

Q. And you opposed it at the meeting?

A. No, I did not oppose it at the meeting.

Q. No? I am sorry, I thought you said you did.

A. No.

Q. You did not voice opposition at the meeting?

A. I did not.

Q. Did you do anything else to further the acceptance of this twenty-five cents an hour?

A. No, I have no vote, so I didn't.

Q. At the meeting or before the meeting?

A. No.

Q. You did nothing to assist Brother Ercoli in receiving the twenty-five cents an hour?

A. Not that I recall.

Q. Well, I take it since you already voiced a fairly thorough recollection of the history you would recall if you had done anything to assist Brother Ercoli in getting this twenty-five cents an hour?

A. No.

Q. I beg your pardon. You would recall that, would you not?

A. I would probably, but I don't recall assisting him in any way, shape or form in obtaining twenty-five cents an hour.

Q. You already said you opposed it?

A. Yes. I opposed it in a discussion with him.

INDICTMENT

Q. And so you did nothing at the meeting or prior to the meeting to assist Brother Ercoli to receive the twenty-five cents an hour, correct?

A. That's correct.

Q. Or the passage of this proposition?

A. No.

Q. You did nothing to assist him?

A. No, I just presided over the meeting. I don't have a vote and it went through by unanimous consent.

Q. You did not do anything to assist to bring it to the floor?

A. No, it was made on that motion there.

Q. And your recollection on that is clear?

A. Fairly clear.

* * * * *

Q. The intent and purpose behind it as you understood it, he would receive twenty-five cents an hour for administrative duties for those hours that he worked on his off duty hours?

A. That's correct. Telephone, expenses, whatever it amounted to.

Q. In fact you opposed even that, is that correct?

A. Yes. At the initiation of the twenty-five cents an hour I opposed it on the principle, as I stated before, that I felt that the Town should run these jobs.

Q. You say at the initiation. Although you opposed it all the way through, you did not speak against it at the meeting?

A. No, I did not.

Q. You did not do anything to assist Lt. Ercoli getting that money?

INDICTMENT

A. No.

Q. Or getting it approved so he could get the money.

A. No.

(Title 18, United States Code, Section 1623.)

COUNT SEVEN

The Grand Jury further charges that:

31. It was material to said inquiry to ascertain whether and when the defendant RALPH PURDY told Supervisors of the Town of Greenburgh and a Commissioner of the Police that off-duty jobs should not be administered by the P.B.A.

32. At the time and place aforesaid RALPH PURDY, the defendant, appearing as a witness under oath did testify falsely with respect to the aforesaid material matters as follows:

Q. You had mentioned earlier that the Town, you had gone to the Town with respect to this twenty-five cents an hour that was to be paid to Ercoli, is that right?

A. No, I didn't say that. I stated that for many years even up to and including March when we negotiated that UF 55 we had been constantly attempting to, through either contract negotiations or other types of means, to have the Town contract for these jobs so that this could go into the comptroller's office and the comptroller pays the individual police officer off his regular payroll, and there would be no problems and we wouldn't be sitting here today.

Q. Well, when did you first go to the Town and voice this opinion?

A. 1967, 1968, 1969.

Q. In 1969 who did you go to? Did you say the comptroller's office?

A. No, supervisor of the Town of Greenburgh.

INDICTMENT

Q. Who was that?

A. I think it was Russo.

Q. You went to Russo and in essence told him that the off-duty jobs should be handled through the Town rather than the P.B.A.?

A. Right, than the Police Department.

Q. Pardon me?

A. Than the Police Department or PBA.

Q. Handled by the Town instead of the Police Department or PBA?

A. That's correct.

Q. And you talked to Russo about that.

And have you talked to the new supervisor Veteran?

A. Yes, that's right. I talked to Mrs. Rosen, the Commissioner. I talked to Supervisor Veteran.

They claim too much paper work and bookkeeping to handle.

Q. Who is Mrs. Rosen?

A. Police Commissioner.

Q. But, in any event prior, you talked to Mr. Russo back prior to the time Mr. Veteran came in, and you talked to Mr. Veteran?

A. Yes.

Q. And in essence you said off-duty jobs should not be handled by the Police Department or by the PBA but should be handled by the Town?

A. Right, that was my position.

I believe the comptroller was, at the the time was Leo Wirtz, and personnel administrator was Mr. Irving Fryer.

(Title 18 United States Code, Section 1623).

WILLIAM J. GARDNER
United States Attorney

United States District Court
SOUTHERN DISTRICT OF NEW YORK

THE UNITED STATES OF AMERICA

vs.

ROBERT ERCOLI,
GERARD HOLLEY and
RALPH PURDY,

Defendants.

INDICTMENT

15 Cr.

(In violation of Title 18, United
States Code, Sections 371 and 1623.)

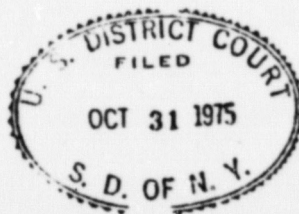
PAUL J. CURRAN

United States Attorney.

A TRUE BILL.

Jeanne D. Cole
Foreman.

FBI-88-2-19-11-2081-6250



Nov. 10, 1975

Deft. Gerard Holley
pleads N/G. Ordered F/P. ROK.

Deft. Robert Ercoli
pleads N/G. Ordered F/P. ROK.

Deft. Ralph Purdy
pleads N/G. Ordered F/P. ROK.
Assigned Brearley for
purposes.

Erumburg.

6/21/76

JUN 22 1976

JUN 23 1976

JUN 24 1976

Defts Ercoli AND Purdy
jury trial begun.
Trial cont'd. - ct 4 dismissed.

Trial Cont'd.

A-19

INDICTMENT

INDICTMENT

11/8 Trial cont'd. ^{in recess} Def't. Ercole found guilty on
 Cts. 1, 2 & 3. ~~Jury~~ PSI ordered. Sent
 adj'd. to 9/13/76. ROR. Jury deliberation
 continued as to def't. Purdy.
 JUL 20 1976 Trial cont'd. & concluded. Jury unable to re-
 B a verdict on def't. Purdy. Court grants
 mistrial. Def't. cont'd. on bail pending
 reassignment and new trial.

7/6/76 Def't. Holley - Gov't's application
 to Nolle Indictment as to
 DEF'T. HOLLEY IS GRANTED. Brieant, J. fu

Brieant, J.

JUL 26 1976 Before Haglund, J. - Second Jury trial before
 def't. RALPH PURDY on counts 6 & 7 -

JUL 27 1976 - Trial continued & concluded - Jury verdict
 on ct 6 - not guilty ct 7 - not guilty

Haglund, J.

10/6/76 Def't. Ercole (atty present)

cts 1, 2 & 3 5 yrs. & study pursuant to
 18, USC Sec. 4205(d). Results furnished
 to Court within 3 months unless
 extended by Court. Def't. to be returned
 to Court for modification of sentence
 pursuant to 18, USC, Sec 4205(c).

BEST COPY AVAILABLE

Brieant, J. Wix

A-21
PLAINTIFF'S BILL OF PARTICULARS

JPC, Jr.:art

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

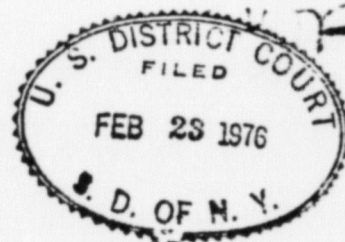
-v-

ROBERT ERCOLI, GERARD HOLLEY,
and RALPH PURDY,

Defendants

BILL OF PARTICULARS

75 Cr. 1040 (C.L.B.Jr.)



STATE OF NEW YORK)
COUNTY OF NEW YORK : ss.:
SOUTHERN DISTRICT OF NEW YORK)

The United States of America, as and for its Bill
of Particulars alleges that:

1. The following were co-conspirators of the
defendants, with the companies, named on the indictment,
for which they worked:

*

Andrew Anderson (N.Y.T., S.G.C.)
Michael Annicchiarico (Tech.)
David Bell (Tech., N.Y.T.)
William Bell (Tech., N.Y.T.)
John J. Boyle (Tech., N.Y.T.)
Robert J. Brown (Tech., N.Y.T., S.G.C.)
Robert Buchanon (S.G.C.)
James J. Byrne (Tech., N.Y.T.)
John Calandro (Tech.)
James Carrozza (Tech., N.Y.T., S.G.C.)
Richard Clarke (Tech., N.Y.T.)
Stephen B. Davis (Tech., N.Y.T.)
Richard Delaney (Tech., N.Y.T., S.G.C.)
Peter W. Dingel (Tech., N.Y.T., S.G.C.)
Richard W. Downey (Tech., N.Y.T.)
George P. Dumick (Tech., N.Y.T., S.G.C.)
Ronald Elsasser (Tech., N.Y.T., S.G.C.)
Salvatore Fertucci (Tech.)

* New York Telephone Company - N.Y.T., Supermarket
General Corporation - S.G.C., Technician Instruments
Corporation - Tech.

PLAINTIFF'S BILL OF PARTICULARS

Clarence Foster (Tech.)
 Louis Galgano (Tech.)
 Michael Gangemi (Tech.)
 Raphael Garofano (Tech.)
 Edward Geary (Tech., N.Y.T.)
 Maurice Geary (Tech., N.Y.T.)
 Gennaro Gelardi (Tech., N.Y.T.)
 Daniel Genet (Tech., N.Y.T.)
 Joseph Gorey (Tech., N.Y.T., S.G.C.)
 Edwin P. Greiner (Tech., N.Y.T.)
 Henry Gustafson (Tech., N.Y.T., S.G.C.)
 John J. Hahn (Tech.)
 William Halstead
 John J. Herring (Tech.)
 William Hawkin (Tech.)
 Henry Heath (Tech., S.G.C.)
 Arthur Hodilla (Tech.)
 Charles Ikwald (Tech., N.Y.T.)
 John A. Kapica (N.Y.T.)
 Ernest Kassay (Tech., N.Y.T., S.G.C.)
 Robert Krobetzky (Tech., N.Y.T.)
 James Lander (Tech.)
 Robert Langley (Tech.)
 Norbert Lannon (Tech., N.Y.T., S.G.C.)
 Michael Lena (S.G.C.)
 Thomas Luid (Tech., N.Y.T., S.G.C.)
 Paul Lio (N.Y.T.)
 John Madry, Sr. (Tech., N.Y.T.)
 John Madry, Jr. (N.Y.T.)
 Richard Maier (Tech., N.Y.T., S.G.C.)
 Francis Maloney (Tech.)
 James Maloney (Tech.)
 Charles Maxwell (N.Y.T., S.G.C.)
 Dennis McConoloe (Tech., N.Y.T., S.G.C.)
 William McDonald (Tech.)
 Thomas Mercante (Tech., N.Y.T.)
 John Meszaros (Tech.)
 Eugene Michaels (Tech., N.Y.T.)
 Douglas Noah (Tech., N.Y.T., S.G.C.)
 William Paige (N.Y.T., S.G.C.)
 John Pennella (Tech., N.Y.T.)
 Manuel Perillo (S.G.C.)
 John Findt. (Tech., N.Y.T.)
 Edward Popp (Tech., N.Y.T.)
 Patrick Pracella (N.Y.T.)
 Wayne Preston (N.Y.T.)
 William Proft (N.Y.T.)
 Gennero Randazzo (Tech., N.Y.T., S.G.C.)
 Russell Rasmussen (Tech.)

A-23
PLAINTIFF'S BILL OF PARTICULARS

JPC,Jr.:art

David Robinson (Tech., N.Y.T.)
Robert Rohs (Tech.)
Anthony Sanseverina (N.Y.T.)
Joseph Sancagate (Tech.)
Joseph Sanzo (Tech.)
John Sarcone (Tech., N.Y.T., S.G.C.)
Brian Scanlon (N.Y.T., S.G.C.)
John Schachinger (Tech., N.Y.T.)
Robert Sharpe (N.Y.T.)
Donald Singer (Tech.)
Edward Sinnott (Tech.)
John Suter (N.Y.T.)
Carmine Tirella (Tech., N.Y.T., S.G.C.)
Sidney Toog (Tech., N.Y.T.)
Howard Ulrich (Tech.)
William Van Dorn (Tech., N.Y.T.)
Billy Wafford (Tech., N.Y.T.)
Dennis Walsh (Tech., N.Y.T.)
Joseph Wanderlingh (N.Y.T.)
Samuel Washington (N.Y.T.)
Allen Williams (Tech.)
Robert Williard (Tech.)
Francis Westerman (N.Y.T.)

2. The dates of P.B.A. meetings at which "tax free" hourly rates of pay were set are as follows:

October 14, 1968,
January 12, 1972.

3. The date at which the Traffic and Safety Division was designated to administer off-duty jobs was in 1968.

4. The defendant earned \$1592.50 from Technician Instruments Corporation.

5. On or about July 13, 1971, the defendant Robert Ercoli told Richard Maier that the New York Telephone Company would pay "five dollars cash tax free" for security guards in the vicinity of 10 County Center Road. The Government knows of no one else present at this conversation.

6. None of the Greenburgh police reported the off duty income which they received from Technician Instruments Corporation, Supermarket General Corporation and New York Telephone Company prior to the initiation of the investigation leading to this indictment.

A-24
PLAINTIFF'S BILL OF PARTICULARS

JPC, Jr.:ik

7. On or about July 13, 1971, the defendant had a conversation concerning the hiring of Greenburgh Police Officers as off-duty security guards for the Telephone Company at 10 County Center Road with Thomas G. Hartman, Thomas A. Owens, and Richard Lillis.

8. In or about May, 1972, the defendant Gerard Holley had a conversation with Joseph Klein in which it was agreed the Greenburgh Police working an off-duty job at the Patimark Store would be paid by cheque at a rate of \$6.00 per hour. The Government knows of no one else who participated in or was present at this conversation.

9. The Internal Revenue Service was denied truthful and accurate information pertaining to the personal income of the police who held off-duty jobs by the failure of said police to declare on their income tax returns the income which they received from those jobs.

10. None of the employers listed in the indictment sent either Federal Tax form W-2 and 1099's to the defendants and their co-conspirators.

11. The conversation described in Paragraph 29 of the indictment occurred on or about January 12, 1972, at Police Headquarters and present were the defendants Robert Ercoli, Ralph Purdy, William Bell, and John J. Boyle.

Dated: New York, New York

February 20, 1976

Yours, etc.,

THOMAS J. CAHILL
United States Attorney for the
Southern District of New York
Attorney for the United States
of America

By: 

JOHN P. COONEY, JR.
Assistant United States Attorney
Office and Post Office Address:
United States Courthouse Annex
One St. Andrew's Plaza
New York, New York 10007
Telephone: (212) 791-0066

A-25
PLAINTIFF'S BILL OF PARTICULARS

JPC,Jr.:art

TO:

FRANCIS J. YOUNG, Esq.
218 E. Hartsdale Avenue
Hartsdale, New York

JAMES D. ROBERTSON, Esq.
Mackell, Manton, & Harold
120-10 Queens Blvd.
Kew Gardens, New York

ANDREW M. LAWLER, Jr.
McGuire and Lawler
630 Fifth Avenue
New York, New York

jg:mg

Pindt-direct

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Q Do you recall any discussion about that job?

A Yes, I do. Lt. Harring stated he had just obtained a new side job for detectives and he wanted Lt. Garofano and Detective Holley to go to the Technicon Corporation and speak to a Tony Variano in regards to a side job.

Q Do you recall any other discussion at that time?

A Lt. Garofano stated that they were on their way to lunch, that it would have to wait until they returned.

Lt. Harring said they had to go immediately. And Detective Holly said, "Yes, we will go right now," which they did.

Q You worked at Technicon Instruments Corporation, is that correct?

A Yes, I did.

Q And did you ever receive a W-2 statement or a statement of earnings from Technicon Instruments Corporation?

A No, I did not.

Q Did you report on your 1969 tax return the income you earned from Technicon Instruments Corporation?

A No, I did not.

Q Do you recall any discussion at any time about the tax status of the Technicon Instruments job?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A Yes, I had various discussions over it.

Q With fellow police officers?

A That is correct.

Q Do you recall when these conversations occurred?

A It was during the period we worked for them,
which was 1968 and 1969.

Q Do you recall who the conversations were with?

A Various members of the department, including
Mr. Purdy.

Q Do you recall specific conversations with
Mr. Purdy?

A I remember conversations, but not specifically
the words I used.

Q Do you recall the substance of any of the con-
versations?

A Yes, I do.

Q Please tell us the substance of that conversa-
tion.

MR. LAWLER: Objection, your Honor. Which con-
versation is this and when did it take place?

THE COURT: Fix the approximate time.

Q Can you fix the time better than 1968-1969?

A No, I cannot.

THE COURT: Can you give us the season of the

jg:mg

Pindt-direct

30

year?

THE WITNESS: I imagine it was some time in the middle of 1969.

THE COURT: Whereabouts did it take place?

THE WITNESS: In our headquarters.

THE COURT: I'll take it.

MR. LAWLER: I'm not clear who this conversation is with, your Honor.

THE COURT: With Mr. Purdy.

MR. WEINBERG: Mr. Purdy, is my understanding.

Q Is that correct, Mr. Pindt?

A That is correct.

Q Please tell us what you said to Mr. Purdy and what Mr. Purdy said to you.

A I think the conversation was in regards to our not reporting on income tax the moneys we derived from outside employment.

Q Do you recall what Mr. Purdy said to you about that, if you recall?

A No, I don't.

Q Mr. Pindt --

MR. ROBERTSON: Excuse me, your Honor. I move to strike the conversation as being nonresponsive.

THE COURT: Would you read it back, please?

1 jg:mg

Pindt-direct

31

2 (Record read)

3 THE COURT: I'll strike it out.

4 Will you give us the substance of the conver-
5 sation, what you said to him and what he said to you?6 THE WITNESS: The substance was that I was
7 concerned about not reporting extra money derived from out-
8 side employment.

9 THE COURT: You told that to Mr. Purdy?

10 THE WITNESS: Yes, I did.

11 Q Do you recall what Mr. Purdy said to you?

12 A No, I don't.

13 Q Mr. Pindt, let me direct your attention to 1971
14 now. Do you recall working an off-duty job with the New
15 York Telephone Company?

16 A Yes, I do.

17 Q Do you recall when you found out about the off-
18 duty job with the New York Telephone Company?19 A I can't pinpoint the date, but it was shortly
20 after the New York Telephone Company went out on strike.21 Q And do you recall who told you about this job
22 with the New York Telephone Company?

23 A I can't recall exactly who told me, no.

24 Q Do you recall how you found out which hours
25 you would work for the New York Telephone Company?

1 jg:mg

Pindt-direct

33

2 a W-2 form or what might be called a 1099 form in connec-
3 tion with your work for the New York Telephone Company?

4 A No, I never did.

5 Q Did you report any of the income that you earned
6 from the New York Telephone Company on your tax returns?

7 A No, I never did.

8 Q Mr. Pindt, let me direct your attention to
9 around January of 1972.

10 Do you recall a meeting of the Policemen's
11 Association in connection with the off-duty job program?

12 A Could you repeat that date, when it was?

13 Q Approximately January of 1972, the early part of
14 1972.

15 A Yes, sir, I remember.

16 Q And do you recall where the meeting occurred?

17 A In our court building, which is the building
18 directly behind our police headquarters.

19 Q Do you recall who was present at the meeting?

20 A Mr. Purdy and Mr. Ercoli were present.

21 Q Do you recall whether other people were present?

22 A Yes, there were.

23 Q Can you just give us an approximate number, if
24 you remember?

25 A No, I cannot remember.

jg:mg

Pindt-direct

37

Q But you don't have a specific recollection as to which detectives?

A No, I don't.

Q Would you please tell us what you said to Mr. Purdy and what Mr. Purdy said to you about the administrative fee?

MR. LAWLER: Your Honor, is this in furtherance of the conspiracy?

THE COURT: Approach the side bar.

(At the side bar)

THE COURT: Is it contended that Mr. Purdy is a co-conspirator?

MR. WEINBERG: Yes, it is.

THE COURT: Why didn't you list him in your bill of particulars (handing)

MR. WEINBERG: I believe he is named in the indictment, your Honor, as a co-conspirator.

THE COURT: I think that is right. OK.

MR. LAWLER: Your Honor, may I make another objection? We are now dealing with the subject of the 25 cents an hour, which as far as I know, relates only to the individual false statement count, in which case I object to conversations with Purdy.

THE COURT: Overruled, because, you see, the

1 jg:mg

Pindt-cross

41

2 A Not exactly, no.

3 Q If I told you it started in July of 1971 and
4 ended in February of 1972, would that refresh your recol-
5 lection as to whether such a conversation took place at
6 the January 7 meeting.

7 A No, it would not.

8 Q You also testified about 25 cents an hour --

9 THE COURT: Please don't summarize his testimony.
10 If you want to ask him a question about the 25 cents, ask
11 him the question. We all heard his testimony.

12 Q A vote was taken in which the PBA approved 25
13 cents an hour as administrative costs for administering the
14 off-duty jobs, is that correct?

15 A That is correct.

16 Q And you were aware that 25 cents an hour was
17 being deducted thereafter from your salary?

18 A No, I wasn't aware of how it was deducted.

19 Q You were aware that it was being taken out,
20 were you not?

21 A No, I was not.

22 Q When did you first learn about that?

23 A I never knew how it was taken out.

24 Q I'm not talking about how. I'm talking about
25 the fact of whether it was taken out.

jg:mg

Pindt-cross

42

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A I couldn't say that either.

Q Did you testify before the grand jury?

A Yes, I did.

Q Do you recall being asked this question and giving this answer--

MR. WEINBERG: What page, please?

MR. LAWLER: Page 51.

"Q When you worked at the Telephone Company, did you know that Lt. Ercoli was receiving 25 cents for each hour you worked at the Telephone Company?

"A Yes, I was.

"Q Did you physically pay Ercoli the 25 cents?

"A No, I didn't.

"Q As you were being paid, the money was being taken out before you received the money, is that correct?

"A That is correct.

Do you recall being asked those questions and giving those answers?

A Yes.

Q So you were aware that 25 cents an hour was being taken out of your Telephone Company pay?

(Pause)

A I believe so, yes.

Q You also testified --

1 jg:mg Pindt-cross 47
2 the early part of 1972 and you filed that income tax re-
3 turn in April of 1973, Did you declare the income from
4 the Telephone Company?

5 A I don't believe I did.

6 Q You have been promised by the government that
7 you are not to be charged with any crimes relating to failure
8 to report that income, is that correct?

9 A That is correct.

10 MR. LAWLER: I have no further questions.

11 THE COURT: Mr. Robertson, do you have any
12 cross-examination?

13 CROSS-EXAMINATION

14 BY MR. ROBERTSON:

15 Q Mr. Pindt, did you attend the meeting of
16 January 12, 1972, of the Greenburgh PBA?

17 A I believe I did, yes.

18 Q And where was that held?

19 A The best I can recall, it occurred in our --
20 I believe it occurred in our courthouse.

21 Q Do you recall what time the meeting began?

22 A No, I cannot.

23 Q Do you recall what time the meeting ended?

24 A No, I cannot.

25 Q Can you recall if you were working that day?

jg:mg

Pindt-cross

51

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Q Were there cons?

A Yes, there was.

Q And a vote was taken?

A I can't recall if there was or not. I can't remember.

Q You don't recall if teh 25 cents an hour administrative fee was voted at that meeting?

A I don't recall how it was finalized, no.

Q Mr. Pindt, you had another meeting with Ralph Purdy relative to this 25 cents an hour administrative fee, did you not?

A Yes, I did.

Q Your testimony is that it was less than a month later?

A Somewhere in that area. I can't be specific on when it was.

Q And you voiced your concern about not reporting outside income to Mr. Purdy?

A Yes, I did.

Q That would have been some time in February of 1972, is that correct?

A I can't recall when it was.

Q Did you file an income tax return April 15, 1972?

jg:mg

D. Bell-direct

67

DIRECT EXAMINATION

BY MR. WEINBERG:

Q Mr. Bell, where are you employed?

A The Town of Greenburgh Police Department.

Q How long have you been so employed?

A Approximately eleven years.

Q Are you a member of the Policemen's Association for the Town of Greenburgh Police Department?

A Yes, I am.

Q And have you ever held any offices in connection with your membership in the Police Association?

A Yes, I have.

Q What offices have you held?

A Recording Secretary, First Vice President and Second Vice President.

Q And what years were you Recording Secretary?

A I believe it was between 1968 and 1972, but I'm not positive on the years.

Q Could you please describe briefly your duties as Recording Secretary for the Police Association?

A Well, usually at a monthly meeting I would record the minutes of the meeting, write them down.

Q To your knowledge, is there any requirement that the Recording Secretary write down the minutes of the

1 jg:mg

D. Bell-direct

75

2 Q You do recall that?

3 A I recall a meeting. I don't know any date,
4 though.

5 Q Do you recall who was present at the meeting?

6 A Not everybody, no.

7 Q Do you recall the number of people that were
8 present?

9 A No.

10 Q Do you recall what, if any, discussion occurred
11 at that meeting concerning an administrative fee for the
12 off-duty jobs?13 A I believe it was Bob Ercoli had stated there
14 was a side job forthcoming or something and there could be
15 rates of \$5 and something an hour off the books and \$6 on
16 the books, paying taxes.17 I'm not sure of the wording. The wording
18 could be different.

19 Q Is that the substance of what occurred?

20 A Yes, I believe so.

21 Q Do you recall any discussion about an admin-
22 istrative fee being paid?23 A Yes. Robert Ercoli, I think, was going to get
24 25 cents an hour, or something, for each hour a man worked
25 on a side job.

1 jg:mg

D. Bell-cross

77

2 A Not at that meeting I didn't review them.

3 Q When is the last time you reviewed them?

4 A I was down his office about two months ago,
5 I think it was.6 Q The January 12th minutes reflect that Mr. Ercoli
7 spoke about a side job.8 Did you have an independent recollection of that
9 or was it only after you looked at those minutes that you
10 had any recollection of it?11 A I could recall slightly there was talk of it,
12 but until I looked at the minutes, I didn't know the date
13 or anything like that.14 Q I take it you attended quite a few meetings
15 of the PBA over the last several years?

16 A Yes.

17 Q Going back over the course of those years, would
18 I be correct that it would be difficult for you, without
19 looking directly at the minutes, to tell us when a particu-
20 lar motion was raised, at what meeting?21 MR.WEINBERG: I object, your Honor, to that
22 question.23 THE COURT: It is permissible cross-examination.
24 Objection overruled.

25 A Yes.

jg:mg

W. Bell-direct

80

W I L L I A M B E L L, called as a witness by
the government, being first duly sworn, testified as
follows:

DIRECT EXAMINATION

BY MR. WEINBERG:

Q Mr. Bell, where are you employed?

A The Town of Greenburgh Police Department.

Q How long have you been with the Town of Greenburgh
Police Department?

A This September will be eighteen years.

Q Are you a member of the Police Association for
the Town of Greenburgh Policemen?

A Yes, I am.

Q During the time that you have worked for the
Town of Greenburgh, have you worked off-duty jobs?

A Yes, I have.

Q And did you work an off-duty job at the Technicon
Instruments Corporation in 1969?

A Yes.

Q Do you recall how you first found out about that
job?

A It became general knowledge at police headquarters.

Q Do you recall from whom you first found out?

A No, I don't.

jg:mg

W. Bell-direct

81

1 Q Did you ever receive a W-2 form or a statement
2 of earnings in connection with your work at Technicon
3 Instruments?
4

5 A No, I did not.

6 MR. LAWLER: May I have a continuing objection?

7 THE COURT: Yes, certainly.

8 Q Did you receive a W-2 form or statement of earn-
9 ings in connection with your work at Technicon?

10 A No, I did not.

11 Q Did you report on your income tax returns the
12 money you earned from Technicon Instruments Corporation?

13 A No, I didn't.

14 Q Do you recall how you found out which hours you
15 worked at Technicon?

16 A I believe we got that information-- there was a
17 note on the podium in the muster room at one time and then
18 it was general knowledge amongst the men what the hours
19 were.

20 Q Did you have to sign up for a particular time
21 that you wanted to work?

22 A Yes.

23 Q And where did you sign up for that?

24 A Traffic Division.

25 Q Mr. Bell, did you work a side job, an off-duty

1 jg:mg

2 job, at the New York Telephone Company in 1971?

3 A Yes.

4 Q Do you recall how you first found out about that
5 job?

6 A There was general discussion around police head-
7 quarters that a job had come up at the Telephone Company.

8 Q Do you remember the specific individual who told
9 you about that job?

10 A No.

11 Q How did you know which hours you would work for
12 the New York Telephone Company?

13 A When I first found out about the job, I found out
14 what the hours were, how much we get paid. This, again,
15 was at police headquarters, through general conversation
16 with the men.

17 Q Do you remember a specific conversation?

18 A No.

19 Q Do you recall where you went to sign up for the
20 particular hours that you were going to work?

21 A Traffic Division.

22 Q And did you see particular individuals in the
23 Traffic Division in order to sign up for the hours you
24 wanted to work?

25 A Yes.

jg:mg

W. Bell-direct

83

1 jg:mg
2 Q Do you recall who you saw in the Traffic Divi-
3 sion?

4 A I believe, at the time, Joe Gorey was one of the
5 men, Robert Ercoli, and I think once or twice I may have
6 signed up with Randazzo.

7 Q Where did you go to get the money that you earned
8 from the New York Telephone Company?

9 A Traffic Division.

10 Q And was there a particular individual in the
11 Traffic Division that gave you the money that you had earned
12 from the New York Telephone Company?

13 A I got it from two different people, yes.

14 Q And who were those people?

15 A Ercoli and Gorey.

16 Q Now, Mr. Bell, do you recall a discussion about
17 paying an administrative fee in connection with the oper-
18 ation of the off-duty job program?

19 A I do.

20 Q Do you recall where that conversation took place?

21 A The Detective Division.

22 Q Do you recall when it took place?

23 A Prior to that meeting that it was proposed.

24 Q Do you recall a PBA meeting in which a proposal
25 was made in connection with the administrative fee?

1 jg:mg

W. Bell-direct

84

2 A That's correct.

3 Q And prior to that meeting you had a discussion
4 concerning the administrative fee?

5 A That's correct.

6 Q And you don't recall how long before the meeting
7 that you had this discussion?

8 A No.

9 Q Who was present at the discussion?

10 A John Boyle --

11 MR. LAWLER: Excuse me just a second, your
12 Honor. Are we talking about hours or days? The witness'
13 testimony, the same ---14 THE COURT: You will have a chance to cross-
15 examine him very shortly.16 Q Can you give us a better estimate as to how soon
17 before the meeting this discussion occurred?

18 A Like I said, I don't recall.

19 Q Who was present at this meeting?

20 A John Boyle, myself, Robert Ercoli and Ralph Purdy.

21 Q And to the best of your recollection, tell us
22 what each party in the conversation said.23 A Ralph Purdy and Bob Ercoli came into the Detective
24 Division. I was in there with John Boyle. Ralph Purdy
25 said -- this is not his exact words because I don't remember

1 jg:mg

W. Bell- direct

2 them -- "We need a proposal so that we can stop all this
3 bickering, all the favoritism on the jobs. We need a
4 proposal made up where we can have Bob run the jobs" -- mean-
5 ing Bob Ercoli -- "and we should give him an administrative
6 fee of a quarter an hour."

7 And my answer to that was, "No problem. OK."

8 Q Do you remember anything else that was said at
9 this meeting?

10 A I only recall Ralph talking.

11 Q After that meeting, was there a meeting of the
12 Police Association in which the administrative fee subject
13 was raised?

14 A There was.

15 Q Do you recall how many people were present at that
16 meeting?

17 A No.

18 Q Can you give us some idea? Five, ten, twenty?

19 A There was quite a few men there, yes.

20 Q Tell us what was said by whom at this meeting
21 in connection with the administrative fee and the off-duty
22 job program.

23 A The off-duty job program-- Bob Ercoli got up and
24 made a talk on the hourly rate we would get, and later I
25 made a proposal that Bob Ercoli gets a quarter an hour

1 jg:mg

2 administrative fee.

3 Q Was there a discussion about your motion?

4 A Yes, there was a discussion.

5 Q Do you recall that discussion?

6 A No. There was quite a bit of discussion that
7 day about both the proposal that Bob Ercoli made plus
8 mine.

9 Q Do you recall the specifics of Mr. Ercoli's pro-
10 posal?

11 A I believe it was on the hourly rate, that if we
12 were going to work and get tax free money, it would be
13 \$5, \$5.50 an hour, and if we had to pay taxes, it would
14 be, I believe, \$6.25, \$6.50 an hour. I'm not positive.

15 Q At this meeting, was the administrative fee
16 proposal that you had made voted on by the members?

17 A Yes.

18 Q And was it approved?

19 A Yes.

20 Q And do you recall whether or not there was a
21 vote in connection with the different rates that would be
22 charged off-duty employers?

23 A I believe there was.

24 Q And would you recall what the vote was?

25 A That it passed as it stood.

1 jg:mg

2 Q Mr. Bell, do you recall any conversations with
3 policemen concerning off-duty work and the tax status of
4 that off-duty work?

5 A I don't know what you mean.

6 Q Do you recall whether or not you had a conversa-
7 tion with a fellow police officer about your off-duty
8 employment and whether or not you would pay taxes on this
9 off-duty employment?

10 A I had several conversations. I recall one --

11 MR. LAWLER: I object.

12 THE COURT: I'll take them one at a time.

13 Q Mr. Bell, tell us each conversation as you re-
14 member it. Try to fix a date for the conversation, if you
15 can. Try to fix the participants of the conversation and
16 what was said.

17 THE COURT: And where it took place.

18 MR. LAWLER: I'll object to this, your Honor.

19 THE COURT: The conversations at which he was
20 present? I'll take them subject to connection.

21 MR. LAWLER: Well, your Honor, I think we should
22 have first who it is with.

23 THE COURT: Yes, he has to tell us who it is with,
24 of course.

25 Q Do you recall the conversation --

jg:mg

W. Bell-direct

88

1 THE COURT: Let's take them insequence, can't
2 we, in some chronological sequence, or other sensible way?

3 MR. WEINBERG: I'll ask the witness to try to
4 do that.

5 THE COURT: Ask the witness about his first one,
6 on or after January 12th.

7 Q Do you recall a conversation after January 12, 1972
8 in connection with the tax status of your off-duty jobs?

9 A Yes. I had a conversation with Ralph Purdy one
10 day in his office.

11 Q Was anybody else present?

12 A No.

13 Q Please tell us what you said and what Mr. Purdy
14 said.

15 A The conversation went along the lines of "I hope
16 I don't get banged too badly with this tax business."

17 And Ralph Purdy's answer to me was, "I don't think
18 you have to worry about it. I think they are after the
19 corporations."

20 Q Do you recall --

21 THE COURT: Wait just a moment.

22 Q Do you recall --

23 THE COURT: Wait just a moment.

24 Can you fix a time for that?
25

1 jg:mg

W. Bell-direct

89

2 Q Can you, Mr. Bell?

3 A It was a time after I had come down here and
4 testified at the grand jury, but --

5 THE COURT: All right. Now wait just a moment.

6 Members of the jury, I want to instruct you that
7 that last testimony may not be considered by you in con-
8 nection with the case involving Mr. Ercoli. The testimony
9 does not show that Mr. Ercoli was present at that particu-
10 lar conversation.11 You are to consider that conversation only in
12 connection with the case concerning Mr. Purdy.

13 MR. WEINBERG: Thank you, your Honor.

14 Q MR. Bell, prior to this January 12, 1972 meeting
15 where you proposed the administrative fee be paid to Mr.
16 Ercoli, do you recall conversations about the tax status
17 of your off-duty employment?

18 THE COURT: This is prior to January 12th?

19 MR. WEINBERG: That is correct, your Honor.

20 A Yes. I can't give you specifics. I talked with
21 my cousin about it, I talked with many men about it, about
22 tax-free jobs.23 Q Do you recall a specific conversation with another
24 police officer in which you talked about the tax status of
25 your off-duty jobs? This is prior to January 12, 1972,

1 jg:g W. Bell-direct/cross 90
2 where you made the motion in connection with the adminis-
3 trative fee?
4 A I would have to say no to that.
5 Q You don't recall?
6 A I don't recall.
7 MR. WEINBERG: No other questions, your Honor.
8 THE COURT: All right.
9 Mr. Lawler, you may cross-examine.
10 MR. ROBERTSON: Your Honor, if I may, just one
11 moment.
12 I would at this time move to strike the conver-
13 sations as irrelevant between this witness and Mr. Purdy.
14 THE COURT: Motion denied. But it is not
15 to be considered in connection with Mr. Ercoli's case.
16 CROSS-EXAMINATION
17 BY MR. LAWLER:
18 Q Prior to today's testimony, you have spoken to
19 government officials on a number of occasions, have you
20 not?
21 A Yes, I have.
22 Q Will you tell us on how many occasions?
23 A I think three times.
24 Q You appeared before a grand jury?
25 A Yes, I did.

jg:mg

W. Bell-cross

91

1
2 Q And they informed you that they were going to
3 question you today in connection with the January 12th
4 meeting?

5 A Are you saying at the grand jury?

6 Q No. Prior to your testimony today, you were inter-
7 viewed last week, were you not?

8 A Yes, I was.

9 Q During the course of that interview, were ques-
10 tions raised about the January 12th meeting?

11 A Yes.

12 Q Did you review the minutes of the meeting prior
13 to your testimony today?

14 A Today? No, I didn't.

15 Q Prior to your testimony today, within the last
16 two weeks, have you reviewed the minutes of that meeting?

17 A Yes, I have.

18 Q During the course of your direct examination,
19 you gave the substance of various conversations that took
20 place three or four years ago. Is your recollection good
21 going back that far, Mr. Bell?

22 A Fairly good, yes.

23 Q Were you questioned in the grand jury in June
24 of 1975 and were you asked a question about the Pericon
25 job?

1 jg:mg

2 A Yes.

3 Q And did you testify in the grand jury that you
4 believed that Lt. Ercoli was in charge --

5 THE COURT: No, no, no. Question and answer.
6 If you want to confront him with prior testimony: "Do
7 you recall being asked this question and giving this answer";
8 give the page number.

9 MR. LAWLER: Page 62.

10 "Q And then you went over to Technicon and worked
11 as a security officer, correct?

12 "A Correct.

13 "Q And you were paid by check?

14 "A Correct.

15 "Q And where did you pick up the checks?

16 "A Back at the Traffic Office.

17 "Q And who was head of the Traffic at that time,
18 do you know?

19 "A Lt. Ercoli, I believe."

20 Q Do you recall being asked those questions and
21 giving those answers?

22 A Yes.

23 Q Would it refresh your recollection if I told you
24 that Lt. Ercoli did not come to the Traffic Division until
25 1971, some two years after Technicon?

1 jg:mg

W. Bell-cross

93

2 MR. WEINBERG: Your Honor, I think it is an
3 improper use of the witness' grand jury testimony.

4 THE COURT: He is finished with that.

5 MR. LAWLER: I am attempting to show he has a
6 faulty recollection.

7 MR. WEINBERG: That is not --

8 THE COURT: I'll overrule the objection.

9 A Repeat that again, please.

10 Q Would it refresh your recollection if I told you
11 Lt. Ercoli did not become head of the Traffic Division
12 until 1971, two years after Technicon?

13 A That would have to be a fact, then.

14 Q Would it refresh your recollection?

15 A I don't really know when he was exactly brought
16 in there, when he was assigned to it.

17 THE COURT: He didn't ask you when he was as-
18 signed. He asked you when he was the head of it.

19 THE WITNESS: That's what I'm referring to,
20 your Honor. If he was the head of the Traffic Division, he
21 had to be assigned in there.

22 Q Does it refresh your recollection or is it that
23 you still don't recall?

24 A I don't recall.

25 Q You worked in the Telephone Company, did you?

jg:mg

W. Bell-cross

94

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A Yes.

Q Do you remember when the Telephone Company job started?

A It was in the fall or the latter part of the summer.

Q Did you testify in the grand jury about that?

A Yes.

Q Do you recall being asked this question and giving this answer:

"Q Do you recall when the Telephone Company job started?

"A The exact date, no, I don't.

"Q Do you recall the time of year?

"A It was going into cold weather, I recall."

Do you remember being asked those questions and giving those answers?

A Yes, I do.

Q Would it refresh your recollection if I told you that the Telephone Company job started in July of 1971?

A I still know it was cold.

Q In July of 1971?

A At four o'clock in the morning it is very cold.

Q Is that what you were attempting to tell the grand jury when you gave that answer?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

jg:mg

W. Bell-cross

95

A No. I was not positive when it did start, and I still am not positive, but you tell me now.

Q Are you telling us that when you said it was going into cold weather, in attempting to place the start of the job, that you were referring to the fact that at four in the morning it was cold?

A Cold, so I had to put a blanket on my face. I was outside in my vehicle.

Q Is that what you were attempting to tell the grand jury, that it was cold or were you attempting to set forth the date of the start?

A To the best of my recollection, like I stated, it was cold.

Q Does it refresh your recollection if I tell you it was July?

A No.

Q You don't recall the start of the Telephone Company job?

A I know it was in the latter part of the summer.

Q You know it was in the latter part of the summer?

A I feel it was in the latter part of the summer.

Q Mr. Bell, you worked in a variety of jobs, did you not, off-duty jobs?

A Yes.

1 jg:mg

W. Bell-cross

2 Q You testified about Technicon?

3 A Yes.

4 Q You said you did not report that income, is that
5 correct?

6 A That is correct.

7 Q Did you work for a company Poirier & McLane in
8 1969?

9 A Yes.

10 Q Did you receive a W-2 from that company?

11 A Yes.

12 Q Did you report that income on your income tax
13 return?

14 A To the best of my knowledge, yes.

15 Q Would you like to see a copy of your tax return?

16 A No, I would not.

17 Q Did you work for a company named Lansing Elec-
18 tronics in 1969?

19 A Yes.

20 Q Did you receive payment from them that year?

21 A W-2 form, yes.

22 Q The year 1969?

23 A I know I received a W-2 form from them.

24 Q Did you report that in your income tax return?

25 A To the best of my knowledge, yes.

jg:mg

W. Bell-cross

97

1 jg:mg
2 Q Would you like to see your tax return and see
3 if it refreshes your recollection?

4 A No, I would say not.

5 Q Well, I would like you to see it in any event.
6 Do you have the tax return?

7 THE COURT: Well, mark it for identification and
8 show it to him. Don't hold up the trial.

9 MR. LAWLER: It has already been marked as Gov-
10 ernment's Exhibit 1D, your Honor.

11 THE COURT: All right. Show it to him.

12 Q I show you what has previously been marked as
13 Government's Exhibit 1D, your tax return for the year 1969,
14 and ask you whether that tax return shows any income from
15 Poirier & McLane or from Lansing Electronics for that year?

16 THE COURT: The question is whether the return
17 refreshes his recollection.

18 Frame the question properly, please.

19 Q Does that refresh your recollection as to whether
20 you reported income from those two concerns in that year?

21 (Pause)

22 A According to this, apparently I did not.

23 Q Mr. Bell, am I correct that you have been informed
24 by the government that you will not be prosecuted because
25 of your failure to report income earned on any of the years

1 jg:mg

2 in question?

3 A You are incorrect.

4 Q You have not been told that by the government?

5 A That I would not be prosecuted?

6 Q Yes.

7 A I wasn't told that.

8 MR. LAWLER: Your Honor, I call upon Mr. Weinberg
9 to make a statement as to whether this witness was informed.

10 A Are you saying immunity?

11 THE COURT: That's what he is saying, immunity.

12 What is your rank in the Police Department?

13 THE WITNESS: Detective.

14 THE COURT: Don't you testify in lots of cases?

15 THE WITNESS: Many times.

16 THE COURT: Do you do it like this, like you are
17 doing it today, with your legs crossed and sitting back like
18 you are half asleep?

19 The question is, do you know you have immunity?

20 THE WITNESS: No, I never felt I had immunity.

21 THE COURT: Did the man ever tell you, Mr.
22 Weinberg, that you had immunity?

23 THE WITNESS: No, he did not.

24 THE COURT: Did Mr. Cooney ever tell you?

25 THE WITNESS: No, he did not.

jg:mg

W. Bell-cross

99

1 jg:mg W. Bell-cross 99
2 MR. LAWLER: May we have a statement from
3 Mr. Weinberg as to whether such a conversation took place?

4 THE COURT: Had you advised this witness that
5 he had immunity?

6 MR. WEINBERG: My recollection is that I did,
7 your Honor.

8 THE COURT: All right. The record will so indi-
9 cate, that the U. S. Attorney concedes he told Mr. Bell
10 he had immunity.

11 MR. LAWLER: I have no further questions.

12 THE COURT: Mr. Robertson.

13 CROSS-EXAMINATION

14 BY MR. ROBERTSON:

15 Q Mr. Bell, you were present at a meeting that
16 was held January 12, 1972, of the Greenburgh PBA, is that
17 correct?

18 A Correct.

19 Q Where was that meeting held?

20 A The courtroom. The Town courtroom.

21 Q Where was that located?

22 A Right next to police headquarters.

23 Q And prior to that meeting you had a conversation
24 with Ralph Purdy in which Purdy asked you to make a motion
25 for an administrative fee of 25 cents on behalf of Ercoli,

1 jg:mg
2 is that correct?

3 A That is correct, yes.

4 Q What time was that meeting held?

5 A I don't recall when it was held. You mean
6 the PBA meeting? Or the meeting between Mr. Purdy and
7 myself?

8 Q The meeting between yourself and Mr. Purdy.

9 A I don't recall.

10 Q You don't recall the date or you don't recall
11 the time?

12 A I don't recall the date nor the time.

13 Q Could it have been the day before?

14 A Like I said, I don't recall.

15 Q Could it have been the day before that?

16 A Like I said, I don't recall.

17 Q Could it have been a week before that?

18 A I don't recall.

19 Q A month?

20 A I don't recall.

21 Q Who was present at the meeting?

22 A John Boyle, Robert Ercoli, Ralph Purdy.

23 Q Was there anyone else present?

24 A I believe there was a fifth person, but I don't
25 remember who it was.

jhg:mg

W. Bell-cross

101

1 Q Could it have been someone by the name of Galgano?

2 A I said I don't remember.

3 Q Could it have been Lt. Garofano?

4 A I don't remember.

5 Q But you distinctly remember Purdy and Ercoli?

6 A Definitely.

7 Q You don't remember the time of the day and you
8 don't recall the day of the week?

9 A That is correct.

10 Q Were you working that day?

11 A Yes.

12 Q Was Purdy working that day?

13 A Yes.

14 Q Was Ercoli working that day?

15 A I don't know.

16 Q Mr. Bell, did you earn \$1185 in the year 1969
17 from Technicon; do you recall that?

18 A The first time I've been told it, right now.

19 Q Did you report that money in your income tax in
20 the year 1970?

21 A No, I did not.

22 Q Did you earn \$819 from the New York Telephone
23 Company in 1971?

24 A I couldn't tell you how much I earned from the
25

1 jg:mg

W. Bell-cross

102

2 Telephone Company.

3 Q Did you report that money on your income tax
4 return in 1972, April?

5 A No, I did not.

6 Q Did you earn \$252 in 1972 from the New York
7 Telephone Company?

8 A I don't know what I earned. I told you that.

9 Q Did you report that money on your 1973 April
10 return for 1972?

11 A I did report extra income, but I don't recall
12 which year it was, 1973 or 1974.

13 Q Did you report the money you earned in 1972 from
14 the Telephone Company?

15 A I don't believe so.

16 Q You testified before the grand jury June 30, 1975.
17 Do you recall being asked this question, page 66:

18 "Q January 12, 1972, you attended a PBA meeting,
19 correct?

20 "A Yes."

21 Prior to your statement before that grand jury,
22 were you interviewed by Mr. Cooney?

23 MR. WEINBERG: Your Honor, there is no question
24 about the testimony.

25 THE COURT: Are you objecting?

jg:mg

W. Bell-cross

103

MR. WEINBERG: Objection.

THE COURT: Why don't you say so?

MR. WEINBERG: I'm sorry.

THE COURT: Sustained.

Q Were you asked that question?

A Give me the question again, please.

"Q January 12, 1972, you attended a PBA meeting, correct?"

Were you asked that question?

A Yes.

Q Did you give the answer "Yes"?

A Yes.

Q Prior to testifying before that grand jury, were you interviewed by Mr. Cooney?

THE COURT: You know, I just told you a minute ago you can't ask that question. I just sustained the government's objection and here you are trying to do it again. I won't have it.

Go on to the next item.

Q May I ask you, sir, how you remember that January 12, 1972 meeting so vividly when you can't seem to remember anything else?

MR. WEINBERG: Objection to the form of the question.

1 jg:mg

W. Bell-cross

104

2 THE COURT: Wouldn't you love to hear him answer
3 that?

4 I'll sustain the objection.

5 Please let's go along here.

6 Q Mr. Bell, you are friendly wth Boyle?

7 A Yes, I am.

8 Q Friendly with Pindt?

9 A Yes.

10 Q Friendly with now Chief Singer?

11 A Yes.

12 Q Then Captain Singer.

13 Were you friendly with Ralph Purdy?

14 A Yes.

15 Q Nominate him for President?

16 A May have.

17 Q Did you nominate him for President on November 8,
18 1973, for the year 1974?

19 A May have.

20 Q Have you been granted immunity to testify here
21 today? Have you been given immunity by the government
22 to testify here against Purdy and Ercoli?

23 A Immunity as to what?

24 Q Now, Patrolman Bell, are you presently involved
25 in a lawsuit pending in the Supreme Court of Nassau County

jg:mg

W. Bell-cross

105

1 against Ralph Purdy with nine other members of the Greenburgh
2 PBA?
3

4 THE COURT: Is it in Nassau County?

5 MR. ROBERTSON: Sorry, your Honor.

6 THE COURT: We heard about the lawsuit this
7 morning. I thought it was in Westchester this morning.

8 MR. ROBERTSON: Westchester.

9 THE COURT: All right.

10 Are you a plaintiff in that lawsuit?

11 THE WITNESS: Sorry. I didn't hear you.

12 THE COURT: He is asking you whether you are a
13 plaintiff in that lawsuit?

14 THE WITNESS: Yes, I am.

15 Q Patrolman Bell, did you ever remove property
16 from a home that you were searching without authorization?

17 MR. WEINBERG: Objection, your Honor.

18 THE COURT: Step to the side bar.

19 I think, if it will be more convenient, I'll let
20 the members of the jury take a brief break at this time.

21 Return to the jury room.

22 The witness may return to the witness room.

23 (The jury left the courtroom)

24 THE COURT: What are you offering to show, Mr.
25 Robertson?

jg:mg

W. Bell-cross

106

1 MR. ROBERTSON: Your Honor, in March of 1971,
2
3 it is our attempt to show that this witness removed a
4 pornographic film from a house in which he was assisting
5 then Sgt. Purdy pursuant to a lawful search order issued
6 by the Court of Special Sessions, the County of Westchester.

7 THE COURT: What is it that that would show?

8 MR. ROBERTSON: It would show that he is a man of
9 immoral character, for one, that he has committed a crime.

10 THE COURT: I thought you said he had a search
11 warrant and he was in the company of Sgt. Purdy.

12 MR. ROBERTSON: It wasn't turned in. The
13 property was not turned in.

14 THE COURT: Well --

15 MR. WEINBERG: Your Honor, prior instances of
16 misconduct that have not resulted in a conviction are not
17 properly admissible.

18 I don't think it is proper to ask a witness about
19 prior actions of misconduct just to attack his credibility,
20 only if it has been the subject of a criminal conviction.

21 THE COURT: Well, it is addressed to my discre-
22 tion. And in view of the fact that Purdy was present when
23 it took place, I suppose I might take it.

24 You will be absolutely bound by his answer.

25 MR. ROBERTSON: Yes, your Honor.

jg:mg

W. Bell-cross

107

1 THE COURT: You can't go in back of it.

2 I really must move along here. But I will rely
3 on 608(b). I will allow you to ask him about it, and on
4 redirect examination, the government can ask him whether
5 Mr. Purdy was there when this great event took place.

6 But I really ask you not to bother me with
7 minutiae of this sort. I think this is probably permis-
8 sible, but I don't have to have chapter and verse on liti-
9 gation in the state court. The fact of the litigation
10 has been shown. That's enough. It is enough to bear on
11 bias.

12 All right.

13 MR. ROBERTSON: I was only attempting to show that
14 this witness was also a party to the action.

15 THE COURT: All right. I allowed you to show
16 that.

17 I'll resume in five minutes.

18 (Recess)

19 (Jury present)

20 THE COURT: I will overrule the objection.

21 MR. ROBERTSON: The last question is withdrawn.
22 I have no further questions of this witness.

23 THE COURT: Any redirect?

24 MR. WEINBERG: Yes, your Honor.

jg:mg

W. Bell-redirect

108

1 THE COURT: Members of the jury, as I told you
2 earlier, questions are not evidence. It is only the an-
3 swers that are evidence. Simply because a question is
4 asked has no meaning at all except to the extent that it
5 helps you understand the answer.
6

7 REDIRECT EXAMINATION

8 BY MR. WEINBERG:

9 Q Mr. Bell, do you recall testifying before the
10 grand jury on June 30, 1975, the federal grand jury?

11 A Yes.

12 Q Do you recall that when you appeared before
13 the grand jury, you were informed that you were a target
14 of the grand jury's investigation?

15 A That is correct.

16 Q Mr. Bell, do you recall, page 67, being asked
17 these questions and giving these answers before the grand
18 jury:

19 "Q All right. On January 12, 1972, Ercoli made a
20 motion or recommended that two different rates be set up
21 for off-duty jobs, correct?

22 "A Yes."

23 MR. LAWLER: I will object to this.

24 Is this cross-examination?

25 THE COURT: Overruled.

jg:mg

W. Bell-redirect

109

1
2 Q I will continue:

3 "Q \$4.50 an hour tax free and \$6.25 taxed?

4 "A That is correct.

5 "Q And you made a motion, seconded by Mr. Boyle,
6 that Ercoli receive 25 cents an hour for administration of
7 said jobs, is that correct?

8 "A Correct.

9 "Q Prior ot making this motion on the floor, had you
10 had any discussion concerning the making of that motion?

11 "A Yes.

12 "Q When and with whom?

13 "A I was approached by Ralph Purdy and Lt. Ercoli.
14 I was with John Boyle, and I believe it took place in the
15 Detective Division main office."

16 MR. LAWLER: I renew my objection. He is just
17 reading from the grand jury testimony.

18 THE COURT: I am taking it to show a prior con-
19 sistent statement to rebut any implied accusation that the
20 man was lying in his direct testimony. Both of you experi-
21 enced attorneys know that.

22 The objection is overruled.

23 Let's go.

24 Q I am continuing that answer now:

25 "A (continuing) --"and I think there was a fifth

jg:mg

W. Bell-redirect

110

1 person there. I don't recall who. And the conversation
2 started where I was more or less prompted by Purdy to make
3 a motion to give Bob, Lt. Ercoli, 25 cents an hour for ad-
4 ministrative purposes.
5

6 "Q What did Ercoli say, if anything, do you recall?

7 "A No. He was just present during the conversa-
8 tion."

9 "Q So Purdy in essence asked you to make this motion
10 concerning 25 cents an hour?"

11 "A Yes. And at the time I was entirely infatuated
12 with him and he was like a god at the time. Everything he
13 seemed to say and do worked out fine."

14 Do you remember being asked those questions and
15 giving those answers before the grand jury?

16 A Yes, I do.

17 Q Now page 64. Do you recall being asked these
18 questions and giving these answers before the grand jury?

19 MR. LAWLER: I renew my objection.

20 THE COURT: Same ruling.

21 MR. WEINBERG: I will continue.

22 "Q And then you would be paid in cash at Traffic,
23 correct?

24 "A Cash.

25 "Q Was this also described as an 'off-the-books job'?

1 jg:mg

W. Bell-redirect

111

2 "A Yes."

3 MR. LAWLER: Objection, your Honor.

4 This is not an area that has been touched upon
5 in direct.6 THE COURT: I know that. I'm not making my
7 ruling on that basis. I thought I told you the basis for
8 my ruling.9 MR. LAWLER: But it can't be a prior consistent
10 statement, your Honor, if he has not dealt with this on
11 direct.12 THE COURT: I am overruling the objection. I
13 am relying on the rule.

14 Let's go.

15 MR. WEINBERG: (Reading)

16 "Q Was this also described as an 'off-the-books job'?"

17 "A Yes."

18 Do you recall being asked those questions and
19 giving those answers before the grand jury?

20 A Yes.

21 Q And when you testified before the grand jury, you
22 were told you were a target of the grand jury investigation,
23 is that correct?

24 MR. ROBERTSON: Objected to, your Honor.

25 THE COURT: That is repetitious.

1 jge 7 Veteran - cross
2 town to take over the off-duty jobs was advanced by Mr.
3 Purdy?

4 A No, sir.

5 Q Do you recall a meeting which took place in your
6 office on March 20, 1974 --

7 A We have a lot of meetings.

8 Q -- which included yourself, Mr. Purdy and Mr.
9 Geary, another police officer from the Town of Greenburgh
10 police?

11 A I don't recall that. We have a lot of meetings
12 there, and I don't recall that, no.

13 Q Do you recall during the course of that meeting
14 Mr. Purdy asking you to have the Town of Greenburgh take
15 over the off-duty jobs?

16 A No, sir.

17 Q Do you recall him telling you in the course of
18 that meeting that he had made a previous proposal to Supervisor
19 Russo?

20 A No, sir, I don't recall it, no, sir.

21 Q Do you recall stating that Russo should have
22 given Nixon advice because he burned everything when you
23 came into office?

24 A He did a pretty good job. I don't recall saying
25 that. But he did a pretty good job, yes. I could have

1 jge 8 Veteran - cross

2 said it. He did a good job, right.

3 Q Mr. Veteran, --

4 THE COURT: That is customary up there in the
5 towns, isn't it, Mr. Veteran?

6 THE WITNESS: I don't know if it is customary,
7 sir, because one party was in office so long, we didn't get
8 a chance to make it customary.

9 THE COURT: Let me tell you that in my town it
10 goes back and forth.

11 All right. Let's go forward.

12 Q Mr. Veteran, do you recall Ralph telling you that
13 he had previously approached this back in 1969 to Nick
14 Russo?

15 A No, I don't.

16 Q In any event, you don't recall any such conver-
17 sation with Ralph in which Patrolman Geary was a party.

18 A No.

19 Q At a later date, at some of the Town board
20 meetings, didn't Arthur Olick indicate to the police commis-
21 sioners and also members of the Town Board that the PBA
22 wanted the town to take over these jobs?

23 A Yes, I recall the Board had a discussion -- the
24 commissioners brought that message back and we discussed it
25 pro and con, yes.

jge 9

Veteran - cross

121

MR. WEINBERG: May we get a date on that, if your Honor please.

THE COURT: You will have a chance at redirect examination.

Q Do you recall the date when that took place?

A No.

Q Was it while Arthur Olick was the town attorney?

A I really don't know, because Arthur Olick was an internal town attorney and then we got a new town attorney and Arthur Olick took over the labor negotiations.

I really don't know that answer.

THE COURT: Was it before October 31st, 1975?

THE WITNESS: Your Honor, I don't know. I would guess it was, but I don't know. I couldn't swear.

Q Do you recall Arthur Olick telling you that either himself or one of his assistants checked the matter out and they discovered that it was unlawful for the town to take over the off-duty jobs?

A Yes. Arthur Olick didn't tell me that. But we discussed it at a Board meeting that this is what the counsel found, yes, sir.

Q Do you recall reading a newspaper article which appeared in late December of 1974 in the Reporter Despatch concerning the Code of Ethics in the Town of Greenburgh?

1 jg:mg 5

2 A No, I didn't.

3 Q Have you ever heard the term or phrase "admin-
4 istrative fee" used in connection with the off-duty jobs?

5 A Yes, I did.

6 Q Do you recall who you first heard that from and
7 when you first heard it?

8 A Going back, sometime in 1971, I guess, somebody
9 had come to me and was complaining about --

10 Q Do you remember who? I'm sorry.

11 Do you recall who was present?

12 A Who was present?

13 Q Who was present when you found out about this
14 administrative fee?

15 A I spoke to Ralph Purdy.

16 Q Do you recall anybody else present?

17 A No, I don't.

18 Q Do you recall where the meeting took place?

19 A Some place in headquarters.

20 Q Do you recall when it took place?

21 A Sometime in 1971.

22 Q Do you recall what you said to Mr. Purdy and
23 what Mr. Purdy said to you?

24 A I spoke to him and said that there had been
25 several complaints brought to my attention by certain

1 jg:mg 7

2 Q Please tell us what you said to Mr. Purdy and
3 what Mr. Purdy said to you?

4 A Mr. Purdy, you know, called me aside and said
5 that he had checked into, you know, the complaints about
6 the side job, and that they would have the Traffic Division
7 take over the side jobs, it would be under Lt. Ercoli's
8 jurisdiction, and that there would be a 25 cent, you know,
9 an hour charge for each hour you worked as an administrative
10 fee.

11 Q Did you also have a conversation with Mr. Purdy
12 after the 25 cent administrative fee went into effect?

13 A Yes, I did.

14 Q Do you recall how long after you found out about
15 the administrative fee going into effect that this conver-
16 sation took place?

17 A It was the night after -- the date of the meet-
18 ing, that night.

19 Q And where did this meeting take place?

20 A In headquarters.

21 Q And do you recall who was present?

22 A Again, it was just, I believe, Mr. Purdy at that
23 time.

24 Q Will you tell us what you said to Mr. Purdy
25 and what Mr. Purdy said to you?

1 jg:mg 12 Walsh-direct 138
2 Government's Exhibit 5 for identification and Government's
3 Exhibit 3 for identification.

4 Tell me, without reading it out loud, by reading
5 it to yourself, does it refresh your recollection as to
6 whether or not you were present at a PBA meeting in which
7 an off-duty job at Pathmark was discussed?

8 (Pause)

9 A I don't recall the meeting.

10 Q OK.

11 Mr. Walsh, do you recall PBA meetings where the
12 tax status of the off-duty jobs was discussed?

13 A Yes, I do.

14 Q How many meetings do you recall?

15 A I remember several.

16 Q Can you give us a time period for any of these
17 meetings?

18 A As far as a year, the year?

19 Q Yes, as best you can.

20 A I would say 1971, 1970, possibly 1972. I'm not
21 sure.

22 Q Let's go with the earliest one first.

23 A Probably even earlier than that as far as payment,
24 you know, what the pay scale would be.

25 Q Do you recall an earlier meeting where the pay

1 jg:mg 15

2 when Mr. Purdy was present or Mr. Ercoli was present in
3 which the off-duty jobs were discussed?

4 THE COURT: Let's take them one at a time.

5 MR. WEINBERG: I'm sorry, your Honor.

6 Q Do you recall a meeting in which Mr. Ercoli was
7 present and the tax status of the off-duty jobs was dis-
8 cussed?

9 A They were discussed on two pay scale types.
10 There would be an on-the-book pay scale and an off-the-books
11 pay scale.

12 THE COURT: What does it mean "on the books" and
13 "off the books"?

14 MR. LAWLER: I'll object.

15 THE COURT: Overruled.

16 What does it mean to you when you use this ex-
17 pression "on the books" and "off the books"?

18 THE WITNESS: On the books, I would expect to
19 pay taxes. Off the books, I would not expect to pay
20 taxes.

21 Q And do you recall a meeting at which Mr. Ercoli
22 was present and that was discussed?

23 A Yes.

24 Q Do you recall any other discussion at PBA meet-
25 ings where Mr. Ercoli was present and the tax status of

1 jg:mg 16

Walsh-direct

142

2 off-duty jobs was discussed?

3 A I said it was several of them. The exact dates
4 I can't, but --

5 Q Besides the two different rates, one being on
6 the books and one being off the books, do you recall any
7 other conversation about the tax status of the off-duty
8 jobs?

9 A People would say, you know, "It is better in my
10 pocket than Uncle Sam's."

11 MR. LAWLER: Objection.

12 THE COURT: Unless it is established who was
13 present, I won't take it. You have to show at least one of
14 the named persons being present.

15 Q Do you recall a meeting at which Mr. Ercoli was
16 present?

17 A Yes, I do.

18 Q Tell us what was said in connection with the tax
19 status of the off-duty jobs?

20 A To the best of my recollection of what was said,
21 it was that there was a side job, there would be two pay
22 scales; one would be an on-the-book pay scale, one would
23 be an off-the-book pay scale.

24 Q Besides that. You told us about that. Do you
25 recall any other discussion about the tax status of the

jg:mg 18

Walsh-direct

144

1 Please find out when and where that was said
2 and who was present?

3 MR. WEINBERG: Your Honor, I have tried with
4 this witness --

5 THE COURT: Don't argue with me. Ask him again.

6 Q Mr. Walsh, do you remember when this conversa-
7 tion took place?

8 A It took place at a PBA meeting some time -- you
9 know, I don't know the exact date. And it took place
10 dealing with side jobs. You know, the exact date I could
11 not give you.

12 Q Do you recall that Mr. Ercoli was present?

13 A Yes, I do.

14 Q Do you recall where the meeting took place?

15 A Probably upstairs in the PBA room at that time,
16 1970 or 1971.

17 MR. WEINBERG: No other questions, your Honor.

18 THE COURT: Mr. Lawler, you may cross-examine.

19 CROSS-EXAMINATION

20 BY MR. LAWLER:

21 Q Mr. Walsh, you referred to "off-the-books jobs."

22 Is that a phrase that was used during your direct
23 examination?

24 A Excuse me?

jg:mq 33

Boyle-direct

159

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A I don't recall the exact date.

Q Do you recall approximaely?

The Technicon job was worked in 1969. Do you recall during 1969 discussions about the tax status of the off-duty jobs?

A Yes, sir.

Q Do you recall where these conversations took place?

A At a PBA meeting.

Q Do you recall who was present?

A No, I don't.

Q Do you recall whether or not Mr. Purdy or Mr. Ercoli were present?

A I'm sure Mr. Purdy was present, as he was President of the PBA at the time.

I don't recall whether Mr. Ercoli was there or not at the time. I believe he was.

Q Do you recall that the tax status of the Technicon job was discussed?

A I believe so.

Q Do you recall that Mr. Purdy was present?

A Yes, sir.

Q What was the discussion in connection with the tax status of the Technicon job?

jg:mq 34

Boyle-direct

160

1
2 A I don't recall the exact --

3 MR. LAWLER: I object, your Honor.

4 THE COURT: I'll overrule your objection.

5 A I don't recall the exact money we were earning
6 now. I believe it was \$4 an hour. But it was \$4 an hour
7 off the books, if that's the correct figures. I'm not sure
8 on that.

9 Q Mr. Boyle, in 1971 did you work an off-duty job
10 for the New York Telephone Company?

11 A Yes, sir.

12 Q Do you recall when you began working that job?

13 A I believe that that was in the summer of 1971.

14 Q Do you recall who told you about the off-duty
15 job at the New York Telephone Company?

16 A I don't recall.

17 Q Before you found out about the off-duty job at
18 the New York Telephone Company, did you see Mr. Ercoli at
19 10 County Center Road?

20 A Yes.

21 Q And how long after you saw Mr. Ercoli at 10
22 County Center Road did you find out about the Telephone
23 Company job?

24 A That night they started.

25 Q Did you find out about it that night?

1 jg:mg 44

2 six.

3 Q You have been given immunity by the government
4 to testify here today, haven't you, Sgt. Boyle?

5 A I believe so.

6 Q And during the year 1969 you earned \$1185 from
7 Technicon; do you recall that figure?

8 A If that's the figure that you have and it is
9 correct.

10 Q Do you recall, sir?

11 A I believe that that is correct.

12 Q Did you report that in April 15, 1970, when
13 you filed your 1969 income tax return?

14 A No, sir.

15 Q And in 1971 you earned \$441 from the Telephone
16 Company. Is that figure substantially correct?

17 A It is possible. I don't know what I earned from
18 the Telephone Company.

19 Q And did you report that figure on your 1971 re-
20 turn when filed in 1972?

21 A No, sir.

22 Q And you earned \$315 from the New York Telephone
23 Company in 1972. Is that figure substantially correct?

24 A I believe so. I'm not sure.

25 Q Did you report that income on your 1972 return in

1 at the same time?

2 A I don't recall that being part of it.

3 THE COURT: I don't think anybody gets chastised
4 any more.

5 MR. ROBERTSON: I do, your Honor.

6 THE COURT: I think he means were you admon-
7 ished or censured?

8 THE WITNESS: Do you want me to answer your
9 question?

10 THE COURT: Yes.

11 THE WITNESS: I was censured by the PBA for acting
12 too hastily in removing literature from the PBA boxes,
13 mail boxes, on the ballot.

14 Q Now, thereafter, did you subsequently bring
15 charges against Ralph Purdy to have him impeached as Presi-
16 dent of the PBA?

17 A That's possible. I believe at a later date, yes.

18 Q Could it have been within a couple of months?

19 A Possibly. I don't recall the time.

20 Q Do you know the disposition of those charges?

21 A Well, he was never impeached.

22 Q Do you recall an incident that occurred on July
23 27th of 1973 involving an individual at the Westchester
24 Premier Theatre?
25

jg:mg 49

Boyle-cross

176

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A No, sir.

Q Did someone try and bribe yourself and another officer on that date for failure to take proper police action?

A No, sir.

Q I mean to bribe you not to take proper police action?

A You have it wrong again, sir.

They tried to bribe a patrolman.

THE COURT: Not you personally?

THE WITNESS: Not me. I attempted to have the fellow bribe him.

THE COURT: You attempted what?

THE WITNESS: I attempted to get the fellow to bribe me, but he never offered me any money.

Q He offered money to a fellow patrolman?

A Yes, sir.

Q Did you arrest him?

A No, sir.

Q Didn't you know that was a violation of the law?

THE COURT: Does it have anything to do with Purdy or Ercoli?

MR. ROBERTSON: It did not.

THE COURT: Then I don't need to hear it.

jg:mg 53

Boyle-cross

180

1 Q Sgt. Boyle, on the date that Ralph Purdy was
2 indicted, did you offer cigars to all the men on duty that
3 day to celebrate his indictment?
4

5 A No, sir.

6 Q Did you offer a cigar to Lena Cacciola?

7 A That is a female and I don't smoke.

8 Q Did you offer her one?

9 A If I did, it was because someone gave me a cigar
10 because they had a baby that day. I don't smoke and the only
11 time I ever bought cigars in my whole life is when I had
12 two children.

13 Q You were handing them out the day Ralph was
14 indicted?

15 A I don't believe so, sir.

16 Q Sgt. Boyle, are you and nine other members of the
17 PBA co-plaintiffs in an action in the Westchester Supreme
18 Court to remove Ralph Purdy from office?

19 A Yes, sir.

20 MR. ROBERTSON: No further questions.

21 Thank you.

22 THE COURT: Any redirect?

23 MR. WEINBERG: Very briefly, your Honor.
24
25

jq:mq 76

Owens-direct

203

1 union's activities?

2 A It would have been early in the strike, but I
3 don't recall the date or the specific information that he
4 gave me the first time.
5

6 Q Do you recall the number of instances that
7 Mr. Ercoli gave you information about the union's activi-
8 ties?

9 A Oh, I can recall two or three.

10 Q Can you place those conversations? Can you give
11 us a time period for those conversations?

12 A I can't give you a time period. A strike is
13 just one event, and I can't really tell you whether it
14 occurred in July or August or September, or any other month,
15 for that matter.

16 Q Do you have a specific recollection of a con-
17 versation with Mr. Ercoli in which he was telling you in-
18 formation about the union's activities?

19 A Yes. There was one--

20 Q Do you recall who was present at the conversation?

21 A No, other than myself, I can't.

22 Q Tell us to the best of your recollection what you
23 said to Mr. Ercoli and what Mr. Ercoli said to you?

24 A There was a mass meeting again at County Center,
25 which was adjacent to our office building, and I know that

1 jg:mq 82
2 see this?

3 A All I know is that it was more than one. I
4 was not always in the Center, so I would not always have
5 been present when that happened. But I did see Bob at
6 least on one occasion.

7 MR. WEINBERG: Your Honor, may I have one brief
8 minute?

9 (Pause)

10 No further questions, your Honor.

11 THE COURT: Mr. Lawler, you may cross-examine.

12 CROSS-EXAMINATION

13 BY MR. LAWLER:

14 Q Mr. Owens, I believe on direct examination you
15 indicated that the strike itself was one big event in
16 your mind at this time, is that a correct statement?

17 A Yes.

18 Q Would I be correct, then, that as far as dis-
19 tinguishing dates or what conversation took place at par-
20 ticular meetings, you are not entirely clear in 1976?

21 A Yes. As to the specific date when those occurred?

22 Q Yes.

23 A That would be true.

24 Q When you described the meeting, the first meeting
25 that you had with Robert Ercoli, or the first time you met

1 jg:mq 100

Hartmann-direct

227

2 was in charge of supervising the buildings within West-
3 chester County, Putnam and Rockland Counties.

4 Q Do you know an individual by the name of Robert
5 Ercoli?

6 A Yes.

7 Q Do you recall when you first met him?

8 A As I recall, it was in Mr. Fitzsimmons' office
9 in our headquarters building.

10 Q Who is Mr. Fitzsimmons?

11 A He was one of our district supervisors.

12 Q And where was his office where you first met
13 Mr. Ercoli?

14 A It was on the second floor facing the street
15 where our headquarters building is located.

16 Q This is at 10 County Center Road?

17 A Yes, 10 County Center Road.

18 Q Was anybody else present when you first met
19 Mr. Ercoli?

20 A As I recall, the chief was there, Mr. Halstead--

21 Q That is Chief of Police?

22 A The Chief of Police; Dick Lillis, as I recall,
23 was there; Tom Owens; and I think Mr. Fitzsimmons was
24 there also.

25 Q Please tell us the conversation that you had

1 jg:mg 101

Hartmann-direct

228

2 with these individuals at that time.

3 A As I recall, we were having an outbreak of vio-
4 lence in front of the building, harassment of people try-
5 ing to come through the picket lines, and also the pickets
6 were stopping delivery of supplies into our building so
7 we were at that time suggesting to the Police that they
8 respond a little quicker to this and aid us in this re-
9 gard.

10 Q Was there any discussion of hiring Greenburgh
11 policemen at that time?

12 A Not that I know of, no.

13 Q Did you have a subsequent conversation with any-
14 one concerning the hiring of Greenburgh policemen?

15 A Yes, I did.

16 Q And how long after this first conversation did
17 that one take place?

18 A It is hard for me to recall. It was shortly
19 after that.

20 Q And who was present at this conversation?

21 A As I recall, Dick Lillis and I talked about it
22 the first time that I got involved.

23 Q Was anyone else present?

24 A Not that I remember.

25 Q Did you ever have a discussion with Mr. Ercoli

1 concerning the use of off-duty Greenburgh policemen to
2 work for the Telephone Company during the strike?

3 A I don't recall a discussion prior to the hiring.

4 Q After the hiring?

5 A Yes.

6 Q And where did that conversation take place?

7 A As I recall, it was in our Control Center.

8 Q And who was present?

9 A As I recall, Dick Lillis and myself, and there
10 were many others, but they were not involved in the direct
11 conversation; they were taking reports and working the
12 Control Center for the strike.

13 Q Can you relate to us the conversation that you
14 had with Mr. Ercoli at that time?

15 A I don't know exactly. This was after we had
16 hired the police.

17 Q Do you remember the conversation that you had
18 with Mr. Ercoli?

19 A As I recall, the conversation was that we were
20 pleased with what they were doing. They were guarding our
21 vehicles and the building at 10 County Road, and I think
22 the hours were something 11 o'clock at night until 7 in
23 the morning.

24 Q Do you remember any other discussion with
25

jq:mq 103

Hartmann-direct

230

1
2 Mr. Ercoli?

3 A At that time, I don't remember any other discus-
4 sion.

5 Q To your knowledge, how were the police of the
6 Town of Greenburgh paid in connection with their off-duty
7 work?

8 A Cash.

9 Q Did you approve the payment in cash?

10 A Yes, I did.

11 Q For the off-duty policemen?

12 A Yes, I did.

13 Q Do you recall a conversation with anybody in con-
14 nection with paying the off-duty policemen in cash?

15 A Well, Dick Lillis and I had discussed it prior
16 to our paying them cash.

17 Q Do you recall any discussion with any police
18 officer about paying policemen in cash?

19 A I do not.

20 Q To your knowledge, were W-2 forms or statements
21 of earnings ever issued by the New York Telephone Company
22 in connection with the work being done by the Greenburgh
23 policemen?

24 A I don't know. I have been advised they were
25 not. But I would have no idea.

jg:mg 106

Hartmann-direct

233

Q Tell us to the best of your recollection what you said to Mr. Ercoli or what Mr. Ercoli said to you?

A The best of my recollection is that Mr. Ercoli had picked up somewhere that we were going to have some trouble with the pickets at our construction site at the White Plains building.

Q Do you recall other discussions with Mr. Ercoli concerning union picketing?

A Well, we had continuous discussions when he was in the Control room about the picketing activities and his policemen who were guarding our facilities at night.

Q Did you ever have a discussion with Mr. Ercoli concerning policemen doing surveillance work on the union members?

A Not that I recall.

Q Mr. Hartmann, did you ever meet with Mr. Ercoli at police headquarters?

A No, I didn't.

MR. WEINBERG: No other questions, your Honor.

THE COURT: Mr. Lawler?

CROSS-EXAMINATION

BY MR. LAWLER:

Q Mr. Hartmann, am I correct that it is your recollection that you did not speak to Mr. Ercoli about off-duty

1 jg:mq 107

2 Greenburgh Police Department personnel until after they
3 had been hired?

4 A That's my recollection, yes.

5 Q And am I correct that it is your recollection
6 that the first time the method of payment was discussed
7 by you was with Mr. Lillis?

8 A Yes.

9 Q You have testified, I believe, that thereafter
10 payment was made in cash, is that correct?

11 A Payment was made in cash, yes.

12 Q Would I be correct, then, that the decision to
13 pay in cash was made by the Telephone Company?

14 A Yes, it was.

15 Q And prior to making that decision, or prior to
16 paying the Greenburgh Police Department in cash, did you
17 check out the propriety of that with anyone within the
18 Telephone Company?

19 A I did not personally.

20 Q Did you have anybody do that?

21 A As I look back, I assume someone had checked it
22 out. I did not personally, and I don't know the name of
23 anybody that did personally.

24 Q Are you aware whether other police departments
25 were hired by the Telephone Company during this period or

jq:mg 108

Hartmann-cross

235

1 off-duty personnel from police departments throughout
2 Westchester County?

3
4 A Yes.

5 Q And do you know who they were paid?

6 A Cash in some cases.

7 THE COURT: What do you mean by that?

8 THE WITNESS: Well, the ones that I know of were
9 paid in cash. They did not report directly to us. The
10 only ones that we were involved in were the buildings. We
11 had construction garage locations that reported to other
12 higher management people, and as I understood it, they
13 paid basically in cash.

14 I could be wrong. That is my understanding.

15 THE COURT: I don't understand the answer. What
16 does it mean "basically in cash"? Did they pay in cash
17 or did they pay by check? Or how did they pay?

18 THE WITNESS: I guess I would have to say I
19 don't know specifically because I was not in charge of
20 that.

21 THE COURT: What did you mean by "basically in
22 cash"?

23 THE WITNESS: I thought they paid them in cash.

24 THE COURT: Go ahead, Mr. Lawler.

25 Q Would it be correct to say, Mr. Hartmann, that

1 jg:mg 109

Hartmann-cross

236

2 to the best of your knowledge the off-duty police person-
3 nel that worked in the Westchester area were paid in
4 cash?

5 A To my knowledge, yes.

6 THE COURT: Not basically, but actually, isn't
7 that right?

8 THE WITNESS: Yes.

9 THE COURT: All right.

10 Q Do you remember a particular incident that came
11 up in September of 1971 as to how Yonkers police would be
12 paid?

13 A Yes, I do.

14 Q And do you recall that there was a suggestion
15 that the Yonkers personnel be paid by a single check made
16 payable to the town?

17 MR. WEINBERG: Objection, your Honor.

18 THE COURT: Because it should have been city
19 instead of town?

20 MR. WEINBERG: No. I would ask for an offer of
21 proof on this line of questioning.

22 THE COURT: Oh, I'll permit this line of question-
23 ing. Maybe he will remember. Maybe he will answer.

24 Overruled.

25 Q Do you remember that particular incident?

1 jg:mg 110

Hartmann-cross

237

2 THE COURT: He means City of Yonkers.

3 MR. LAWLER: City of Yonkers. I'm sorry.

4 A City of Yonkers. Yes, I do.

5 Q And do you remember that a conclusion was reached
6 that if a check was made payable to the City of Yonkers it
7 would cost the Telephone Company 25% more?

8 A Yes, I do.

9 Q Am I correct that as a result of that a check
10 was not made to the City of Yonkers but each of the person-
11 nel were paid individually in cash?

12 A That's my best recollection.

13 Q After the Greenburgh Police Department, the
14 off-duty personnel of the Greenburgh Police Department, be-
15 gan working for the Telephone Company, was a list submitted
16 to you that set forth the name, the Social Security number
17 of each of the people who worked?

18 A Yes, it was.

19 Q And on a periodic basis were lists submitted
20 to you listing those names, Social Security numbers and the
21 hours worked?

22 A They were, yes.

23 Q And miscellaneous expense vouchers were there-
24 after made out?

25 A Correct.

jq:mq 111

Hartmann-cross

238

Q At any time during the course of this strike did you ever have a conversation with Robert Ercoli where you represented to him that W-2 forms or statement of earnings would not be sent out by the Telephone Company at the end of the year?

A No, sir.

Q Was it your understanding at any time, or at the time the Greenburgh Police Department were hired that W-2s or statements of earnings would not be sent out?

A No. I assumed they would have been. I never thought about W-2 forms.

Q You never had a conversation with Mr. Ercoli or any other member of the Greenburgh Police Department about that?

A I did not, no, sir.

THE COURT: Which is it now? You assumed they would have been or you never thought about it? Aren't those two inconsistent things? Which is your answer?

THE WITNESS: I never thought about it and I never discussed W-2s.

THE COURT: All right. So you made no assumptions that they would have been?

THE WITNESS: No, sir.

THE COURT: All right.

jq:mq 113

Hartmann

240

1 pay the City of Yonkers by check?

2 THE WITNESS: I didn't say that, sir.

3 THE COURT: Didn't you so testify that the com-
4 pany had concluded it would cost 25% more?

5 THE WITNESS: Yes.

6 THE COURT: What is the basis for the 25%?

7 THE WITNESS: We were told that if we paid them
8 by check, the 25% would go towards their benefits in the
9 police association.

10 THE COURT: All right.

11 You are excused.

12 (Witness excused)

13 THE COURT: Members of the jury, we will take
14 a brief recess at this time.

15 (The jury left the courtroom)

16 THE COURT: Mr. Weinberg, I want to say something
17 to you, and this is not intended to be in the nature of
18 personal criticism or a reprimand or anything like that.
19 But, you know, if you have witnesses that won't come through
20 for you on a particular count, don't waste our time with
21 it. If they won't give you surveillance testimony, just
22 tell the Court, "I can't prove Count 4" and drop it and
23 let's go on where you have evidence.

24 I think that you are taking up time with matters --
25

jq:mg 121

Maier-direct

248

Q And how were you paid by the New York Telephone Company?

A Cash.

Q Mr. Maier, do you attend meetings of the Policemen's Benevolent Association?

A Yes, I do.

Q Do you recall being present at a PBA meeting where different rates for off-duty employment was discussed?

A I believe I was there, yes.

Q Do you recall when this took place?

A No.

Q Can you give us any idea?

A No.

Q 1971, 1972, 1973?

A I believe it was during the Telephone strike.

Q Where did the meeting take place?

A In the Greenburgh court, in back of the police headquarters.

Q Tell us what the discussion was concerning different rates for off-duty employment.

MR. LAWLER: Objection, your Honor.

THE COURT: Overruled.

MR. LAWLER: There has been no indication Mr. Ercoli was present during this time.

lg:mg 122

Maier-direct

249

1
2 THE COURT: Mr. Ercoli? I'll take it subject
3 to connection to Mr. Ercoli.

4 MR.LAWLER: No one else has been shown to be
5 present.

6 THE COURT: He was present. I'll take it sub-
7 ject to connection.

8 Q Do you recall whether Mr. Ercoli was present?

9 A I believe he was, yes.

10 Q Tell us the conversation at that meeting concern-
11 ing the off-duty employment and the different rates to be
12 charged.

13 A I believe -- I'm not sure -- I believe William
14 Bell and Sgt. Boyle made a motion of any side jobs, that
15 it would be at \$5.25 without taxes and \$6.50 with taxes.

16 I could be off on the figures.

17 Q Do you remember any other discussion at that
18 meeting about different rates for off-duty employment?

19 A This would pertain to any new side job coming
20 into the Police Department.

21 Q Do you recall being present at a conversation
22 with a police officer concerning the amount of money you
23 would earn for working at Pathmark?

24 A Do I remember?

25 Q Do you recall being present at a conversation

jg:mq 123

Maier-direct

250

1 where the off-duty employment at Pathmark was discussed
2 and the amount of money that you would be paid in connec-
3 tion with that work?
4

5 A Yes.

6 Q Who was that conversation with?

7 A I believe that was with Detective Holley.

8 Q And where did that conversation take place?

9 A I believe it was in the old PBA room. But being
10 that they switched the PBA room, I'm not sure, but it was
11 designated PBA room.

12 Q Do you recall who else was present?

13 A No, I don't.

14 Q Do you recall what you said to Mr. Holley and what
15 Mr. Holley said to you?

16 MR. LAWLER: Objection, your Honor.

17 THE COURT: I'll take it subject to connection.

18 A I guess he said it to the majority of the people
19 that were there.

20 Q What did he say?

21 A I guess we -- in the beginning we were paid by
22 Pathmark by check. And I believe it was taking too long
23 to get the money. So then they decided to pay by cash,
24 petty cash, I believe. And that's what he stated, that
25 they would pay, I guess, five bucks an hour out of petty

jg:mg 124

Maier-direct

251

1 cash.

2
3 Q Do you recall any discussion at that time about
4 paying different rates because they were not going to
5 withhold taxes?

6 A At that time? No, I don't. I don't really.

7 Q Do you recall any discussion with Detective
8 Holley on that subject at any time?

9 A No.

10 Q Did you testify before the grand jury on June
11 18, 1975?

12 A Yes.

13 Q Were you asked this question and did you give
14 this answer, page 58:

15 "Q Let's go to the Supermarkets General job at
16 Pathmark; how did you first hear about that job?"

17 MR. LAWLER: I object.

18 THE COURT: Overruled.

19 MR. LAWLER: The witness has not shown any lack
20 of recollection. He said he just didn't have any such
21 conversation.

22 THE COURT: I'm overruling that objection.

23 MR. WEINBERG: (Reading)

24 "Q Let's go to the Supermarkets General job at
25 Pathmark; how did you first hear about that job?

jq:mq 139

Brown-direct

266

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Q Did he say what he would do?

A I believe he said something about getting somebody to run it on a basis of handing out the jobs equally.

Q Was there any discussion about an administrative fee at that time?

A Not that I recall, no.

Q Did you work an off-duty job with Pathmark?

A Yes, I did.

Q Were you initially paid by check for your work at Pathmark?

A Yes.

Q And did there come a time when you were paid in cash?

A Yes.

Q Did you ever have a discussion with Mr. Ercoli about your job at Pathmark?

A Yes.

Q Do you recall the number of conversations you had about the Pathmark job with Mr. Ercoli?

A Just one.

Q Do you recall when that took place?

A No, I don't.

Q Do you recall who was present?

A I believe myself, Ercoli and Ronald Elsasser.

ja:mg 140

Brown-direct/cross

267

1 I'm not sure.

2 Q What did Mr. Ercoli say and what did you say
3 concerning the Pathmark job?

4 A I don't know how the subject came up, but it was
5 about the quarter fee, and he told me that he was going
6 to buy PBA golf outing chances with the money.

7 Q Did you give him, did you give Mr. Ercoli some
8 of your pay from your Pathmark job at that time?

9 A Yes.

10 MR. WEINBERG: Your Honor, may I have one moment?

11 THE COURT: Yes.

12 (Pause)

13 MR. WEINBERG: No further questions, your Honor.

14 THE COURT: Mr. Lawler, you may cross-examine.

15 CROSS-EXAMINATION

16 BY MR. LAWLER:

17 Q Mr. Brown, you testified, I believe, that you
18 worked an off-duty job at Technicon?

19 A Yes.

20 Q Was in fact that an off-duty job?

21 A As far as I know, it was.

22 Q Did you have any other employment at the time?

23 A No, I did not.

24 Q You were in fact under suspension from the
25

jq:mg 141

Brown-cross

268

1 jq:mg 141 Brown-cross 268
2 Greenburgh Police Department during that period, were you
3 not?

4 A Yes, I was.

5 MR. WEINBERG: Your Honor, I don't think that is
6 a proper question.

7 THE COURT: The fact that he was under suspension
8 may be elicited, but I won't take anything further on it
9 in the absence of an offer of proof at the side bar.

10 Q Now, with respect to the Pathmark job, when you
11 went to work for Pathmark, didn't you fill out an employ-
12 ment kit, as it was called?

13 A Yes, I did.

14 Q And in that you gave your name, Social Security
15 number and whatever other information they required?

16 A Yes, I did.

17 Q And when you started there, you were paid by
18 check, were you not?

19 A Yes.

20 Q Mr. Brown, you have worked a variety of jobs
21 other than the police job over the years, have you not?

22 A Yes.

23 Q In 1969, in addition to Technicon, did you work
24 at Elmsford Construction, Site Con Industries and Poirier
25 & McLane?

- 1
2 A In the police headquarters.
3 Q Were you working that day?
4 A Yes.
5 Q What tour were you working?
6 A I don't remember.
7 Q You don't remember?
8 A No.
9 Q Could it have been the 4 to 12?
10 A I don't remember.
11 Q You were interviewed on May 16, 1975, by
12 Mr. Cooney, a United States Attorney; do you recall that?
13 A Yes.
14 Q Did you tell Mr. Cooney about this meeting at
15 that interview?
16 A No.
17 Q You testified before the grand jury on June 27,
18 1975, is that correct?
19 A Yes.
20 Q Did you tell the grand jury about that meeting?
21 A No.
22 Q When did you first learn that you were receiving
23 immunity to testify?
24 A The last time I was down here. I don't recall it.
25 THE COURT: Last summer, did you say?

jq:mq 146

Brown-cross /redirect

273

1 THE WITNESS: The last time I was down here,
2 your Honor. I don't recall the date.

3 Q That you were interviewed by Mr. Weinberg?

4 A Yes.

5 Q And that is the first time this story arose,
6 is that correct?

7 A Yes, sir.

8 Q But you don't recall what time of the day it
9 happened?

10 A No, I don't.

11 Q You don't know whether you were working an 8 to 4
12 or a 4 to 12 or 12 to 8 in the morning?

13 A No.

14 MR. ROBERTSON: No further questions.

15 THE COURT: Any redirect?

16 MR. WEINBERG: Very briefly, your Honor.

17 REDIRECT EXAMINATION

18 BY MR. WEINBERG:

19 Q Mr. Brown, weren't you told that you would not
20 be prosecuted for your failure to report income for money
21 earned from Technicon Instruments or the New York Telephone
22 Company or Pathmark?

23 A Yes.

24 Q That's what you were told you would not be
25

1 MR. WEINBERG: Your Honor, I object to that.

2 THE COURT: Yes. I'll sustain the objection.

3 You may show him any data or information that
4 you have, any document or tax return or anything like that.

5 (Pause)

6 THE COURT: Can we move along?

7 Will the government concede he earned \$84?

8 MR. WEINBERG: I'll concede it because I don't
9 think it matters, your Honor.

10 THE COURT: You either concede it or you don't.

11 MR. WEINBERG: I'll concede it.

12 THE COURT: What year is it you contend he earned
13 \$84?

14 MR. LAWLER: 1972.

15 THE COURT: All right. It is stipulated that in
16 1972 he earned \$84.

17 Let's go forward.

18 Q And the motion that was passed at the meeting
19 of May 19 for \$6 an hour was with the understanding that
20 there would be tax withheld from that amount?

21 A It was my understanding that there would not
22 be tax withheld.

23 THE COURT: There would not be?

24 THE WITNESS: Yes, sir, would not be.
25

jge 24

Russo - redirect

MR. LAWLER: Your Honor, the witness is in the middle of an answer

THE COURT: He is not answering any question.

MR. WEINBERG: It is not fair to the Government, your Honor.

THE COURT: Oh, don't. I'll sustain your objection. I'll strike out what the witness said. The jury will disregard it.

Frame another question, please, Mr. Weinberg.

MR. WEINBERG: No other questions, your Honor.

THE COURT: Any further cross examination?

MR. ROBERTSON: Excuse me one second, your Honor.

(Pause.)

RE-CROSS EXAMINATION

BY MR. ROBERTSON:

Q Mr. Russo, after testifying before the grand jury on October 28, 1973, did you return to the Town of Greenburgh?

A Yes, I did.

Q And how did you return? By automobile or by train?

A By automobile. I drove down.

Q Did you at that time have an occasion to reflect

xx

1 jge 25

Russo - recross

2 on what your prior testimony had been before the grand jury?

3 A While I was driving home I was thinking about
4 it.

5 Q And what were those reflections?

6 MR. WEINBERG: I object, your Honor.

7 THE COURT: I'll allow it.

8 A Well, I was just trying to recall whether, you
9 know -- as I indicated earlier, I've had many conversations
10 with various people while I was in office and I was just
11 trying to recall whether or not any specific -- you know,
12 the specifics of the questions. I remember various conver-
13 sations, but I can't pick out what the topic of the discussion
14 was.

15 So that I sort of, you know, kind of felt maybe
16 some of these things were discussed but I just honestly
17 don't remember.

18 MR. ROBERTSON: Thank you.

19 No further questions.

20 THE COURT: Anything else?

21 MR. WEINBERG: No other questions.

22 THE COURT: We will take a brief recess at this
23 time, members of the jury.

24 (Recess.)
25

jg:mg 9

Cole - direct

318

1

2

Q And do you recall whether or not he took an oath?

3

A Yes, he did.

4

Q To tell the truth?

5

A Yes, he did.

6

7

Q Mrs. Cole, would you briefly describe for us what the grand jury that you were the forelady of was investigating?

8

9

THE COURT: At the time that these men took the oath.

10

11

THE WITNESS: At the time that these men took the oath --

12

13

THE COURT: Yes. What subject matters were you investigating?

14

15

16

17

18

19

20

21

22

THE WITNESS: The subject matter was basically in two phases, as I recall it: We were attempting to determine whether or not there had been any conspiracy either internally, among the members of the Greenburgh Police Department, or if there was any conspiracy between any members of that Police Department and the businesses for which the policemen of that company worked for their off-hours jobs, employment outside of their regular police work.

23

Q What type of conspiracy were you investigating?

24

25

A Conspiracy relative to the failure of the police officers, or many of the members of that Police

1 jg:mg 10

2 Department, to report the income that they had earned on
3 those side jobs.

4 MR. WEINBERG: May I have one moment, your Honor?

5 THE COURT: Yes.

6 (Pause)

7 MR. WEINBERG: No other questions.

8 MR. LAWLER: No cross-examination.

9 MR. ROBERTSON: No questions, your Honor.

10 THE COURT: Thank you, Mrs. Cole.

11 You are excused.

12 (Witness excused)

13 MR. WEINBERG: Your Honor, at this time the
14 government would like to read grand jury testimony.

15 THE COURT: Do you have a stipulated record?

16 MR. WEINBERG: Yes, we do have a stipulation on
17 that, your Honor.

18 THE COURT: Would you step over to the side bar?

19 (At the side bar)

20 THE COURT: This is merely by nature of inquiry.

21 I must break around four o'clock. If you have
22 live witnesses waiting outside, if you want to put them
23 on, that would be fine with me and you can come back and
24 read it later.

25 Are you reading more than what is in the indictment?

1
2 THE COURT: Is the inconsistency or the falsity
3 the fact of the dispute over where the meeting took place?

4 MR. WEINBERG: That is correct.

5 THE COURT: Whether it took place at 10 County
6 Center Road, as the Telephone Company executives testi-
7 fied, or in the Greenburgh Police Station, as Mr. Ercoli
8 testified?

9 MR. WEINBERG: That is correct, your Honor.

10 THE COURT: That's all there is to it?

11 MR. WEINBERG: That is correct, your Honor. And
12 the government believes that there is a strong motive there
13 for Mr. Ercoli to lie concerning that count in the indict-
14 ment.

15 Mr. Ercoli in the grand jury creates the impres-
16 sion that he was not anxious at all for the policemen to
17 be hired by the Telephone Company, that the Telephone Com-
18 pany came to him in order to obtain police officers who
19 were willing to work for the Telephone Company during the
20 strike.

21 THE COURT: And the knowing and wilful falsifi-
22 cation that is found in that count is solely as to where
23 the meeting took place, a matter of some half mile dis-
24 tance?

25 MR. WEINBERG: Your Honor, I think --

1 jg:mg 27

337

2 THE COURT: It is going to be very hard to send
3 somebody away on something like that.

4 I'll have to come back to that point.

5 Let's discuss the other points.

6 MR. LAWLER: May I be heard on that count, your
7 Honor?

8 THE COURT: Sure.

9 MR. LAWLER: Your Honor, with respect to Count 3,
10 it clearly is just a question of where the meeting took
11 place. But I think the testimony that we have heard here
12 today clarifies it.

13 The one witness who testified, Mr. Owens, said
14 he could not be sure of the timing, that the original
15 meeting with Mr. Ercoli related to having additional on-
16 duty Greenburgh police and it was only in the course of
17 meetings, and he wasn't sure when, that the subject came
18 up.

19 In light of those circumstances, the impression
20 that the count attempts to give that Mr. Ercoli sought them
21 out has clearly been rejected by the one witness who tes-
22 tified on this count. It was a natural outgrowth of their
23 not --

24 THE COURT: You can't go to jail for creating
25 impressions. The count is concerned with false declarations.

1
2 THE WITNESS: The chief said to cut out running
3 the jobs during Police Department hours, that in the future,
4 if we wanted to sign up the men, we had to do it after the
5 normal business hours; in other words, on our own time.

6 Q Was there also a discussion about use of the
7 telephones?

8 A Yes, sir. Nothing connected with the side jobs
9 could be conducted, including the telephone, during Police
10 Department hours.

11 Q Did you at anytime thereafter have a discussion
12 with Lt. Ercoli about that subject?

13 A Yes, sir.

14 Q And he was aware of the chief's position?

15 A Yes, sir.

16 Q Do you have a recollection, Mr. Gorey, of this
17 subject coming up at any time at a PBA meeting?

18 A It was discussed.

19 Q And would you fix as best you can when it was
20 discussed and what was said?

21 A It was discussed shortly after that time, which
22 would be late 1970 or early 1971 where, in order to sign
23 up, the men would have to go to the PBA room on the
24 second floor of headquarters after four o'clock in the
25 afternoon to sign up for the jobs.

jq:mg 131

Gorey-direct

443

Q And was there also a discussion that these new regulations would involve the expenditure of certain amounts of money?

A Yes, sir.

Q And was there any discussion about who would bear the expense for those expenses?

A Well, in one of the conversations that came up, a 25 cents an hour administration fee would be charged to cover expenses of administering the job.

THE COURT: I think you should show who this conversation was with, to indicate whether it is contended Mr. Ercoli was in the conversation.

Q Do you remember who was present during this conversation?

A It was at a general membership meeting.

Q Do you remember what meeting it was?

A No, sir, I don't remember the exact date.

Q Can you tell us who was present?

A Well, the lieutenant was there --

THE COURT: You mean ---

A -- Lt. Ercoli. Most of the Board of Officers, and I would say about 50% of the general membership.

Q Was it your understanding that the 25 cents per hour per man on the job had been approved?

1 jg:mg 132

Gorey-direct

444

2 MR. WEINBERG: Objection, your Honor?

3 THE COURT: Sustained. That is his understand-
4 ing. Strike it out.

5 Just what was said.

6 Q Thereafter -

7 MR. WEINBERG: I object to the form of that
8 question, your Honor. I'm sorry.9 MR. LAWLER: I didn't say anything except "There-
10 after" --11 THE COURT: I struck out the last answer, so it
12 isn't after anything.13 Q Subsequent to this meeting, what was the next
14 off duty job that you recall?

15 A The Whitmeyer job.

16 Q And was the Whitmeyer job handled by the Traf-
17 fic Division?

18 A Yes, sir.

19 Q Do you know what Whitmeyer is, what type of
20 company?21 A A construction company doing renovation work
22 on the Cross-Westchester Expressway.23 Q And was the 25 cents per hour per man taken out
24 during the course of that job?

25 A I believe it was, sir.

jg:md 143

Gorey-cross

453

MR. ROBERTSON: Thank you.

CROSS-EXAMINATION

BY MR. WEINBERG:

Q Mr. Gorey, do you recall when the Whitmeyer job was administered by the Traffic Division?

A The latter part of March of 1971.

Q And did you testify on direct that you took a quarter an hour out for the men in connection with the Whitmeyer job?

A No, sir, not on the Whitmeyer job.

Q Was a quarter an hour paid to Mr. Ercoli in connection with the Whitmeyer job?

A I believe it was.

Q And it was paid to Mr. Ercoli by the company, is that correct?

A I think so, that is correct.

Q It was not paid by the police officers?

A No, sir.

Q Lt. Ercoli and the Traffic Division were paid a quarter an hour in connection with running the Telephone Company job from the money that the police officers earned, is that correct?

A Yes, sir.

Q And that money was not paid directly from the

jge 9

Garofano - direct

470

Police Department and pick up another moonlighting rule and regulation from Captain Bernard Seit.

Q Did you see Purdy the following day?

A I assume that same day.

Q Did he give you anything?

A He gave me the envelope? Did you open the envelope?

A No, I didn't.

Q What did you do with it?

A I gave it to Chief Halstead.

MR. ROBERTSON: No further questions.

MR. WEINBERG: Just a couple of questions, your Honor.

CROSS EXAMINATION

BY MR. WEINBERG:

Q Mr. Garofano, did you work in 1969 for Technicon Industries Corporation?

A I don't know whether it was '68 or '69, sir, but I did work there.

Q And you earned income from Technicon Industries?

A Yes, I did.

Q And did you receive a W-2 form or a statement of earnings in connection with that work?

A No, I didn't.

jq:mq 4

Halstead-direct

475

1
2 THE COURT: All right. Just answer the ques-
3 tion.

4 Q Does it refresh your recollection as to the
5 date?

6 A Yes. February 5th.

7 Q What would that date be?

8 A February 5, 1971.

9 Q And did you also on or about that time, issue
10 orders relating to the administration of these side jobs?

11 A In what respect?

12 Q As far as the men in the Traffic Division.

13 A Well, there was a memorandum --

14 THE COURT: Just say, "Yes, I did issue it."
15 "No, I did not issue it."

16 THE WITNESS: Yes, I did.

17 Q And do you recall who was in charge of the
18 Traffic Division during the early part of 1971?

19 A I believe it was Lt. Ercoli, but my memory
20 would have to be refreshed.

21 Q Do you recall having a conversation with Lt.
22 Ercoli concerning the off-duty jobs?

23 A Yes.

24 Q And do you recall having a conversation with
25 him about men within his Division --

1 jg:mg 8

Halstead-direct

479

2 A Yes.

3 Q Can you fix an approximate time and place where
4 that conversation took place?

5 A All I can say is during the Russo regime.

6 Q Did that conversation between yourself and
7 Ralph Purdy concern the Town taking over the moonlighting
8 jobs?

9 MR. WEINBERG: Objection, your Honor.

10 THE COURT: Sustained. It is leading. And
11 now you may elicit the conversation. But tell us where
12 and who was present. First where and who was present.

13 Q If you recall, can you tell us where this conver-
14 sation occurred?

15 A With Ralph Purdy?

16 Q Yes.

17 A In my office.

18 Q Was there anyone else present?

19 A Lt. Garofano could have been there. I'm not
20 sure.

21 Q Would you tell us the sum and substance of that
22 conversation?

23 A Yes. He said he was interested in the men
24 working under the same conditions as the City of White
25 Plains. He wanted me to get the system that they had in

1 jq:mq 15

Halstead-cross

486

2 on Old Tarrytown Road.

3 Q There was some disturbance going on, is that
4 correct?

5 A Yes. I am not sure of the date. That was the
6 first strike they had. You are talking about the first
7 strike they had?

8 Q Do you recall that there was a strike during
9 the summer of 1971 with the New York Telephone Company?

10 A I am not sure whether the first strike was 1971
11 or not.

12 Q During one of the strikes of the New York Tele-
13 phone Company --

14 A Yes, sir.

15 Q -- you sent Lt. Ercoli over to the Telephone
16 Company, did you not?

17 A Yes, sir. This was the second strike.

18 Q This was the second strike?

19 A I think it was, yes.

20 Q And you sent Lt. Ercoli over to the Telephone
21 Company headquarters, is that correct?

22 A That is correct.

23 Q And did you send him over there to see whether
24 or not the Telephone Company was interested in hiring
25 Greenburgh Police to do off-duty work?

jg:mg 42

Ercoli-direct

513

at which you raised the subject of the Chief's directive concerning off-duty jobs, were you not?

A Yes, sir.

Q Was any recommendation or suggestion made at that particular meeting in your presence as to how that problem would be handled?

A I believe this is when the 25 cents came up on the floor for administrative fees, this was in the March 1971 meeting.

However, after the recommendation -- I remember the discussion on the floor about the 25 cents in 1971. Then I left.

Q Were you there when any vote was taken?

A No, sir.

Q Did you there fter have a conversation with anyone concerning what had happened after you left the meeting?

A I bclieve that I had a conversation with -- I don't recall who it was, but I'm almost positive it was one of the Board of Officers of the PBA.

Q Would you tell us what that conversation was?

A Exactly what transpired after I left the meeting on the administrative fee, the 25 cents, and at that time it was my understanding, based on the conversation that was

1 jg:mg 43

Ercoli-direct

2 passed --

3 MR. WEINBERG: Excuse me, your Honor. Is this
4 a conversation?

5 MR. LAWLER: It is a conversation.

6 THE COURT: Between whom?

7 MR. LAWLER: He said one of the Board, but he
8 doesn't remember which member.

9 THE COURT: One of the Town Board?

10 THE WITNESS: The PBA Board.

11 THE COURT: All right.

12 Q Continue, Mr. Ercoli.

13 A I asked him what had transpired. And from the
14 conversation that I had I took for granted that it was
15 passed.

16 MR. WEINBERG: Your Honor, I object.

17 THE COURT: Yes. I'll strike out the answer
18 "I took it for granted it was passed."

19 The jury will disregard it.

20 MR. LAWLER: I think--

21 THE COURT: I'll take the conversation if he will
22 tell me what he said to the person and what the person
23 said to him, even if he can't remember the person's name,
24 that is all right.

25 MR. LAWLER: I understand that. But under these

1 jg:mq 45

Ercoli- direct

2 A That is correct.

3 Q Can you tell me what the next off-duty job was
4 subsequent to this meeting?

5 A The very next one was Whitmeyer Brothers in 1971.

6 Q And do you know how the Whitmeyer job came about?

7 A Again, as I recollect, somebody -- one of the
8 officers came in to my office and advised me that he had
9 spoken to a representative of the Whitmeyer Brothers and
10 they would be in to see me.

11 And then maybe three weeks -- two to three weeks
12 after that conversation, a person from Whitmeyer Brothers
13 did come to my office.

14 Q And did in fact patrolmen work off duty for
15 Whitmeyer?

16 A Yes, sir.

17 Q And do you know how they were paid?

18 A By check.

19 Q And do you know whether W-2 statements or state-
20 ments of earnings were sent at the end of the year?

21 A Yes, sir. I got one.

22 Q Did you ever work for Whitmeyer?

23 A No, sir.

24 Q With respect to this 25 cents an hour for each
25 man who worked, did you receive that money?

1 jg:mq 52

2 the Telephone Company to hire off-duty men at 10 County
3 Center Road?

4 My answer was "No."

5 MR. WEINBERG: Your Honor, is this a conversa-
6 tion?

7 THE COURT: I believe it is not responsive.

8 I'll strike it out.

9 Q You said you had a number of meetings at your
10 office.

11 Did you also have meetings at 10 County Center
12 Road?

13 A Yes, sir.

14 Q On numerous occasions?

15 A Once or twice a day and sometimes more. And
16 also with the union.

17 Q Do you remember a conversation, or did you par-
18 ticipate in a conversation, where the Telephone Company
19 talked in terms of hiring off-duty patrolmen?

20 A Yes, sir.

21 Q Can you tell us, do you remember where that con-
22 versation took place?

23 A Well, based on the testimony that I heard from
24 the Telephone Company --

25 MR. WEINBERG: Your Honor, I don't think this is

jq:mg 53

Ercoli-direct

responsive.

THE COURT: It is not responsive.

Strike it out.

Q You testified in the grand jury that the conversation took place at your office at police headquarters.

A That is correct.

Q Is that still your best recollection?

A That is still my best recollection.

Q Is it possible that it took place at 10 County Center Road?

A Yes, it is very possible it took place there.

Q Now, there came a point at which police personnel went to work for the Telephone Company, am I correct?

A Yes, sir.

Q Prior to the first time, were you aware how these men were going to be paid?

A No, sir.

Q Had you ever requested it be in cash?

A No, sir.

Q Did you ever have any conversation with anyone at the Telephone Company that the earnings would not be reported by the Telephone Company?

A No, sir.

Q Would you describe personally the procedures for

jg:mg 70

Ercoli-direct

541

1
2 BY MR. LAWLER:

3 Q Directing your attention to the early part of
4 January, 1972, do you recall whether you were present at
5 a meeting of the PBA?

6 A Yes, I believe I was, sir.

7 Q The minutes of that meeting, which are in evidence,
8 state that "Brother Ercoli stated that a new job, side job,
9 was coming and if the membership wanted to raise the hourly
10 rate" ...

11 Did you in fact say at that meeting, to the best
12 of your recollection, that there was a new side job coming?

13 A No, sir. As far as I can recall, no.

14 Q Was there a new side job coming?

15 A No, there wasn't any.

16 Q In January of 1972?

17 A No, sir.

18 Q Did you raise the question of whether the member-
19 ship wanted to adjust the hourly rate?

20 A At that --

21 THE COURT: Can't you answer the question? You
22 raised it or you didn't raise it?

23 THE WITNESS: No, sir. I raised the question --
24 I raised the point that I refused to handle any more off-
25 duty jobs.

1 jg:mag 71

2 Q Did you raise any question about the hourly rate?

3 A There is a possibility I might have. I don't
4 recall. I don't recall whether I did or not.

5 Q There then is a resolution which was passed re-
6 lating to a new hourly rate.

7 Did you participate in that discussion, to the
8 best of your recollection?

9 A To the best of my recollection, I did not.

10 Q Do you know whether you were present at the entire
11 meeting?

12 A No. Again, if I had something to say at the
13 meeting, I said it and got out.

14 Q There is also are reference to 25 cents an hour,
15 the resolution being passed. Were you present when such a
16 resolution was passed?

17 A No, sir.

18 Q And do you know what the next off-duty job was
19 after the Telephone Company?

20 A After the Telephone Company?

21 Q That is correct. When did the Telephone Company
22 end?

23 A February 9 or 10, I believe, of 1972.

24 Q Do you know what the next off-duty job was?

25 A The next off-duty job was Pathmark, which was

jg:mg 72

Ercoli - direct

543

1 taken care of by Patrolman Randazzo and Detective Holley.

2 Q Did you have anything to do with negotiating the
3 rate?
4

5 A No, sir.

6 Q Did you have anything to do with setting up the
7 terms?

8 A No, sir.

9 Q Did you have the authority to set rates, by the
10 way, Lt. Ercoli.

11 A No, sir.

12 Q Who had the authority to do that?

13 A The PBA body. I would set tentative rates sub-
14 ject to approval of the PBA.

15 Q Do you know what their financial arrangements
16 were at Pathmark?

17 A No, sir, I don't.

18 Q Did you ever work for Pathmark?

19 A No, sir, I didn't.

20 Q Do you know whether they were paid by cash or check?

21 A I understand that it started out by check and
22 later went to cash, which came out in somebody's testimony.
23 I don't recall who it was.

24 Q Mr. Ercoli, did you enter into a conspiracy in
25 1967 and 1968 with any other individual to defraud the

jg:mg 73

Ercoli-direct

544

1 United States Government of taxes?

2 A No, sir.

3 MR. WEINBERG: Objection, your Honor.

4 THE COURT: I'll let him answer that.

5 A No, sir.

6 Q And did you ever advise anyone not to report income
7 on their individual tax returns?

8 A No, sir.

9 Q Did anyone ever speak to you about the fact that
10 they would not report income on their tax returns?

11 A No, sir.

12 Q Did you testify in the grand jury in this case?

13 A Yes, sir, to the best of my knowledge and ability.

14 Q Can you tell us how that came about?

15 A I had called Mr. Cooney and asked him --

16 THE COURT: What he is asking is, did you get a
17 subpoena?

18 MR. LAWLER: He is saying before the subpoena.

19 THE COURT: You didn't get a subpoena? All right.

20 A I called Mr. Cooney and requested to come down and
21 testify and then two days later I wind up with a subpoena.

22 Q Did you in fact testify before that jury?

23 A Yes, sir, I did, without an attorney.

24 Q Without an attorney?

jg:mg 74

Lrcoli-direct

545

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A Yes, sir.

Q And did you answer the questions to the best of your ability?

A Yes, sir, to the best of my ability at that time, based on the fact that we were talking-- four years had gone by and in the four-year period I probably had 2500 meetings and I had no papers to recollect anything.

To the best of my ability, yes.

Q Did you tell the truth here to the best of your ability here today?

A Yes, sir, I have.

MR. LAWLER: I have no further questions.

MR. ROBERTSON: Your Honor, may I?

THE COURT: Yes, certainly.

DIRECT EXAMINATION

BY MR. ROBERTSON:

Q At any time during the years 1971 and 1972 did you ever speak to Mr. Purdy about your receiving 25 cents an hour compensation brought before the membership of the PBA?

A No, sir.

Q At any time during the years 1971 or 1972 did you ever have any conversations with Patrolman Bell and Patrolman Boyle, where Sgt. Purdy was present, where he asked

OCTOBER 14, 1968

THE REGULAR MONTHLY BUSINESS MEETING, HELD IN THE REC. ROOM AT HSTO., WAS CALLED TO ORDER BY PRES. PURDY AT 8:15 P.M.

ROLL CALL OF OFFICERS ENTERED IN ATTENDANCE BOOK

MINUTES OF THE PREVIOUS MEETING. BRO. SPRONG MADE MOTION TO ACCEPT AS READ - 2ND BY GRIENER. ALL IN FAVOR

DEATHS: BRO. VAN DORN'S FATHER

PRES. PURDY BRIEFED MEMBERSHIP ON WEST. CO. CONF. AT LAURELS C.C.. PRES. PURDY ENDORSED FOR STATE CONFERENCE SEPT FOR RECORDING SECRETARY POSITION.

REPORTS OF OFFICERS: PRES. GAVE REPORT ON HIS ACTIVITIES FOR THE FIRST MONTH. TREASURER READ FINANCIAL STATEMENT. DISCUSSION ON FLOOR OVER FUND RAISING PROBLEMS. 60% FUND NOW HAS - \$1443.94 - 30% FUND HAS \$1584.18 - 10% FUND HAS \$1799.83 TOTALING \$4827.85. TRUSTEES HAVE NO REPORT.

BRO. DOHERTY SUGGESTED THAT P.B.A. BOOSTER DECALS BE GIVEN TO CONTRIBUTORS.

REPORTS OF COMMITTEES: BRO. O'BELL IS NOW HEAD OF THE INSURANCE COMM. BRO. GUSTAFSON COMMENDED MEMBERS OF FINANCING COMM. FOR THEIR JOB WELL DONE ON THE 24R. CONTRACT NEGOTIATED, YIELDING A 24.1% INCREASE. BRO. MURPHY MADE MOTION THAT A PAYROLL DEDUCTION PLAN BE INITIATED TO INSURE AND SIMPLIFY PAYMENT OF DUES. BRO. WILSON MADE 2ND ON MOTION. ALL IN FAVOR, SO ORDERED.

PRES. PURDY READ ARTICLE XVI - SECT. 5 BY LAW (DEATH-DISABILITY BENEFIT). DISCUSSION ON FLOOR OVER ITS WORDING AND CONTENTS. ISSUE TABLED PURSUANT TO TRUSTEES AND BY-LAWS COMM. REVIEW OF SUGGESTED CHANGES IN ITS WORDING.

GOVERNMENT EXHIBIT 3A: MINUTES OF PBA MEETING OF
OCTOBER 14, 1968

100

DISCUSSION ON FLOOR OVER RE-NEGOTIATING CONTRACT WITH ATTORNEY GRANT REYNOLDS. HIS PRESENT FEE IS \$75 PER MONTH - \$900 PER YEAR RETAINER FEE, EXCLUSIVE OF INDIVIDUAL REPRESENTATIONS. BRO. DESENTI MADE MOTION THAT PRES. PURDY NEGOTIATE NEW CONTRACT WITH MR. REYNOLDS - 2nd BY ULRICH. ALL IN FAVOR.

BULLETING FOR CANDIDATES: NOV. IS ELECTION OF OFFICERS MONTH. ELECTION DATE WILL BE 1st MONDAY IN DECEMBER.

UNFINISHED BUSINESS: WELFARE FUND IS MAKING U.S. SAVINGS BONDS (SERIES E) AVAILABLE TO EVERY MEMBER, WHO SO WISHES TO PARTICIPATE. BRO. ULRICH IS CHAIRMAN OF INSTALLATION OF OFFICERS DINNER TO BE HELD ON THE 2nd MONDAY IN JAN. 1969. DISCUSSION ON FLOOR OVER WHERE DINNER IS TO BE HELD AND THE COST PER COUP. PRES. PURDY MADE MOTION TO PRESENT A GOLD P.S.A. CARD TO BRO. DONOHY, AS A FRIEND TO THE POEN. - 2nd BY BRO. MADON. ALL IN FAVOR, SO ORDERED.

GOOD OF THE ASSOCIATION: BRO. GUSTAFSON MADE MOTION THAT WE INCREASE OUR OFF-DUTY RATE TO \$500 PER HOUR (TAX FREE), A MINIMUM OF \$15 PER JOB. THIS RATE SHALL BECOME EFFECTIVE 11/1/68. IF FOURIER - McLANE OBJECTS TO SPED RATE, THAT WILL BE ONLY EXCEPTION. BRO. SPARONE MADE 2nd ON MOTION. ALL IN FAVOR, SO ORDERED.

50/50 CLUB DRAWING WON BY BUCKOUT (\$20.50)

MOTION TO REBURN BY BRO. SPARONE - 2nd BY BRO. ULRICH. ALL IN FAVOR.

RESPECTFULLY SUBMITTED,
Harold E. Churchill
Recording Secretary

GOVERNMENT EXHIBIT 3C: MINUTES OF PBA MEETING OF
JANUARY 12, 1972

98

January, 12, 1972

THE REGULAR MONTHLY BUSINESS MEETING WAS HELD IN THE P.B.A. ROOM AND CALLED TO ORDER BY Pres. Purdy, AT 4⁰⁰ PM.

Pledge of ALLEGIANCE TO THE FLAG LED BY Acting Sgt. OF ARMS. Bro. NOAH.

ROLL CALL OF OFFICERS PRESENT - Pres. Purdy, V. Pres. Corey, Treas. Delaney, Rec. Sec. D. Bell, TRUSTEES, MADRY SR., J. BOYLE, J. FIRST, Sgt. AT ARMS. D. NOAH, FIN. SEC. T. LIND EXCUSED.

Motion TO ACCEPT THE MINUTES OF THE DEC 7, 1971 BUSINESS MEETING AND DEC. 15, 1971, BY Bro. NOAH, SECONDED BY Bro. GENE, ALL IN FAVOR, SO ORDERED.

SICK MEMBERS - Bro. DeSanti, AND Bro. WESTERMAN, AND Bro. MESZARIS.

COMMUNICATION AND BILLS - Pres. Purdy PURPOSED ADAPTION OF BY-LAW CHANGE ARTICLE V, SECTION 4 & 7 VOTING. Motion TO TABLE BY-LAW CHANGE BY Bro. MADRY SR., SECONDED BY Bro. RANDAZZO. SHOW OF HANDS VOTE ON FLOOR, Motion DEFEATED. Motion TO ADOPT BY-LAW CHANGE AS READ BY Bro. BOYLE, SECONDED BY Bro. RANDAZZO, ALL IN FAVOR, SO ORDERED.

REPORT TO MEMBERSHIP PRESENT ON THE GHI AND HIP MEDICAL PLANS BY Bro. DAVIS. DISCUSSION ON FLOOR, MORE INFORMATION FORTHCOMING ON MEDICAL PLANS.

REPORT OF OFFICERS - Pres. Purdy READ THE FINANCIAL REPORT FOR 1971 TO MEMBERS PRESENT. Motion BY Bro. VAN DORN AND SECONDED BY Bro. CAROZZO TO ACCEPT THE FINANCIAL REPORT AS READ, ALL IN FAVOR, SO ORDERED.

Pres. Purdy READ A LETTER FROM Bro. BYRNE IN REGARDS TO HIS RETIREMENT BENEFIT OF \$4,000.00.

GOVERNMENT EXHIBIT 3C: MINUTES OF PBA MEETING OF
JANUARY 12, 1972

199

Motion TO PAY \$4,600.00 TO Bro. BYRNE AND WELFARE BENEFITS DUE BY Bro. LANLEY, SECONDED BY Bro. HOLLEY, ALL IN FAVOR
SO ORDERED

Motion BY Bro. GENET, SECONDED BY Bro. NOAH TO GET LEGAL ASSISTANCE FOR Bro. BYRNE; 2 VETERANS DAY, 10 VACATION DAYS 4 PERSONAL LEAVE DAYS HE DID NOT RECEIVE, ALL IN FAVOR
SO ORDERED.

PRES. Purdy read a letter from Bro. Suter in regards to the RELOADING MACHINE OWNED BY THE PBA. Bro. Suter STATED HE WOULD LIKE TO PURCHASE SAME. Pres. Purdy REFERRED SAID MATTER to Bro. Willard, Pistol Team Coordinator.

PRES. Purdy SPOKE ON LEGISLATION ON THE FINAL AVERAGE RETIREMENT bill coming up for RENEWAL, July 1, 1972.

PRES. Purdy, MADE A RECOMMENDATION TO MEMBERS PRESENT ON A LEGAL ASSISTANCE GROUP PLAN SPONSORED BY THE WESTCHESTER COUNTY POLICE CONFERENCE TAYLOR LAW AND LEGAL ASSISTANCE GROUP PLAN. DISCUSSION ON FLOOR. Motion BY Bro. BOYLE, SECONDED BY Bro. GOREY TO TABLE SAID PLAN, ALL IN FAVOR, SO ORDERED.

TREASURER'S REPORT - SUBMITTED BY Bro. DELANEY AND READ TO MEMBERSHIP AND FILED. Motion TO ACCEPT TREASURER'S REPORT BY Bro. MAOY SR, SECONDED BY Bro. RANDAZZO, SO ORDERED.

DINNER DANCE COMMITTEE - Bro. NOAH STATED NOTHING ON DATE OR PLACE YET. Pres. Purdy APPOINTED Bro. HAWKINS TO ASSIST Bro. NOAH.

WELFARE REPORT - READ AND SUBMITTED BY Bro. GOREY, Motion TO ACCEPT REPORT AS READ BY Bro. BOYLE,

GOVERNMENT EXHIBIT 3C: MINUTES OF PBA MEETING OF
JANUARY 12, 1972

200

SECONDED BY BRO. ERCOLI, SO ORDERED.

BALLOTTING FOR CANDIDATES - BRO. MICHAEL LENA AND BRO. JOSEPH DELIO, MOTION TO ACCEPT BRO. LENA AND BRO. DELIO AS MEMBERS BY BRO. RANDAZZO, SECONDED BY BRO. NOAH, ALL IN FAVOR, SO ORDERED.

CHRISTMAS PARTY REPORT BY BRO. DELANEY - PRES TURDY COMMENDED BRO. DELANEY FOR HIS TIME AND WORK IN GIVING THE CHILDREN A WONDERFUL CHRISTMAS PARTY, AND ALSO TO COMMEND SANTA, CARMINO TITELLA FOR HIS HELP, GERVASIO RANDAZZO SANTA'S ELF.

NEW BUSINESS - BRO. McDONALD SUBMITTED A PROPOSAL FOR MODIES NEEDED IN SENDING MEN TO FUNERALS OF SLAIN POLICE OFFICERS ANYWHERE IN THE UNITED STATES.

DISCUSSION ON THE FLOOR. PRES. TURDY APPOINTED A COMMITTEE TO CHECK INTO POSSIBLE SOLUTION, BRO. McDONALD, BRO. GOREY, AND BRO. NOAH, DISCUSSION TABLED FOR COMMITTEE RECOMMENDATION.

MOTION BY BRO. BOYLE, SECONDED BY BRO. MADRY TO ASSES MONEY FROM WELFARE FUND FOR THOSE WHO FAILED TO PAY FOR GOLF CHANCE BOOKS, ALL IN FAVOR, SO ORDERED.

BRO. ERCOLI STATED THAT A NEW SIDE JOB WAS COMING AND IF THE MEMBERSHIP WANTED TO RAISE HOURLY RATE. NEW HOURLY RATE AS FOLLOWS: \$5.50, TAX FREE. \$6.25, TAXED AND \$20.00 MINIMUM. MOTION BY BRO. W. BELL, SECONDED BY BRO. BOYLE THAT BRO. ERCOLI RECEIVE \$0.25 PER HOUR FOR ADMINISTRATION OF SIDE JOB, ALL IN FAVOR, SO ORDERED.

MOTION TO ADJOURN MEETING BY BRO. ~~CHAS~~ NOAH, SECONDED BY BRO. DOWNEY, ALL IN FAVOR, SO ORDERED.

RESPECTFULLY SUBMITTED
DAVID BELL, REC. SEC.

MAY-19, 1972

The regular Monthly business meeting was held in the PBA room and was called to order by Pres. Purdy AT 4:00 PM.

Oath of Allegiance to the Flag led by Pres. Purdy.

Roll Call of Officers Present: Pres. Purdy, V. Pres. Gorey, Treas. Delaney, Rec. Sec. D. Bell, Trustees. Pindt.

Motion to accept the minutes of the April 13, and 19 meetings by Bro. Holley, seconded by Bro. Sanseverino. All in favor, so ordered.

Grievance - Pres. Purdy spoke on grievance of School Post #74 and that he would discuss grievance with the Chief Halstead further.

Pres. Purdy informed members that he received a definition from Capt. Crosetto on Saluting Sergeants. All Patrolmen when approaching a Sergeant outside of headquarters will salute him.

Pres. Purdy informed members that he sent letters to legislators for their support of the final year average for retirement of police.

Pres. Purdy spoke on grievance meeting with Capt. Crosetto, Sergeant's reporting for duty on the half hour.

Pres. Purdy spoke on off duty police officers working as school crossing guards at present how late.

218

Letters of retirement Submitted by Bro. STATS, Bro. Hanning, Bro. Beilharg for retirement benefits.
Motion to Accept letters of retirement and pay benefits due by Bro. Randazzo, Seconded by Bro. Govey, All in favor.
So Ordered.

Reports of Committee: Civicus Committee-report Submitted and read to members and filed.

Treasurer's-report Submitted by Bro. Delaney and read to Membership and filed.

Welfare Report-Submitted By Bro. Govey and read to Membership + filed.

Financial Secretary-Report read to Member on \$100.00 Bond. IF You wish to get \$200.00 Bond for NEXT Year Notify Bro. Lindo.

Motion to Accept reports by Bro. Downey, Seconded By Bro. Scaplon, So Ordered.

Bro. Holley SPOKE ON A Side Job for OFF DUTY Men AT PATH MARK Store in HARTSDALE, Working from 11 PM to 7 AM
Motion by Bro. Randazzo to work AT PATH MARK Store for 6. hour. Seconded By Bro. Downey, So Ordered.

New Business: Bro. Ercoli SPOKE ON New Ambulance purchased by the department. Bro. Ercoli STATED he would Welcome any Suggestion as the Ambulance from Members.

Pres. Purdy Congradated Bro. Downey, Bro. Boyle, Bro. Calandro. for there Appointment AS Sergeants AND to Bro. Grugemi AS Lientenant.

219

Motion to Adjourn Meeting By Bro Randazzo
Seconded By Bro Scanlon, All in FAVOR, so
Ordered.

Respectfully Submitted
D. J. Bell
Recording Secretary

A-143
GOVERNMENT EXHIBIT 20: LIST OF EARNINGS BY POLICE OFFICERS

GX20

| <u>Policeman</u> | <u>1969 Tech- nicon</u> | <u>1970 Super- markets</u> | <u>1971 N.Y. Tele- phone</u> | <u>1971 Super- markets</u> | <u>1972 N.Y. Tele- phone</u> | <u>1972 Super- markets</u> |
|-------------------|---------------------------------|------------------------------------|--------------------------------------|------------------------------------|--------------------------------------|------------------------------------|
| Anderson, A. | | | 708.75 | | 162.75 | 264.00 |
| Annicchiarico, M. | 30.00 | | | | | |
| Bell, D. C. | 1122.50 | | 374.06 | | | |
| Bell, W. J. | 1185.00 | | 819.00 | | 252.00 | |
| Boyle, John J. | 1185.00 | | 441.00 | | 315.00 | |
| Brown, R. J. | 570.00 | | 1189.13 | | 225.75 | 904.00 |
| Buchanan, R. | | | | | | 74.00 |
| Byrne, J. J. | 1250.00 | | 73.50 | | | |
| Calandro, J. A. | 957.50 | | | | | |
| Carozza, J. | 1115.00 | | 446.25 | | | 44.00 |
| Clarke, R. F. | 440.00 | | 435.75 | | 89.25 | |
| Davis, S. B. | 40.00 | | 448.88 | | 126.00 | |
| Delaney, R. J. | 190.00 | | 341.25 | | 36.75 | 84.00 |
| Dingee, Peter W. | 242.50 | | 126.00 | | 36.75 | 44.00 |
| Downey, R. W. | 527.50 | | 378.00 | | 162.75 | |
| Dumich, G. P. | 1510.00 | | 653.63 | | 126.00 | |
| Elsasser, R. F. | 205.00 | | 459.38 | | 189.00 | 346.50 |
| Ercoli, R. M. | 1592.50 | | 462.01 | | | |
| Fertucci, S. | 80.00 | | | | | |
| Foster, C. E. | 627.50 | | | | | |
| Galgano, L.R. | 1225.00 | | | | | |
| Gangemi, M. J. | 490.00 | | | | | |
| Garofano, R. | 650.00 | | | | | |
| Geary, E. J. | 1077.50 | | 929.25 | | 404.25 | |
| Geary, M. | 770.00 | | 740.25 | | 441.00 | |
| Gelardi, Gennaro | 165.00 | | 126.00 | | | |
| Genet, D. M. | 1040.00 | | 76.13 | | | |
| Gorey, Joseph P. | 1435.00 | | 551.25 | | 189.00 | 132.00 |
| Greiner, E. P. | 290.00 | | 215.25 | | | |

A-144
GOVERNMENT EXHIBIT 20: LIST OF EARNINGS BY POLICE OFFICERS

| <u>Policeman</u> | <u>1969 Tech- nicon</u> | <u>1970 Super- markets</u> | <u>1971 N.Y. Tele- phone</u> | <u>1971 Super- markets</u> | <u>1972 N.Y. Tele- phone</u> | <u>1972 Super- markets</u> |
|------------------|---------------------------------|------------------------------------|--------------------------------------|------------------------------------|--------------------------------------|------------------------------------|
| Gustafson, H. | 845.00 | | 162.75 | | | |
| Bahn, J. J. | 1437.50 | | | | | |
| Harring, J. J. | 1090.00 | | | | | |
| Hawkins, W. | 120.00 | | | | | |
| Heath, Henry | 980.00 | 90.00 | | | | |
| Hodella, A. R. | 925.00 | | | | | |
| Holley, G. | 2825.00 | 645.20 | | 4836.00 | | 5034.00 |
| Ikwild, C. W. | 1437.50 | | 372.75 | | 63.00 | |
| Kapica, J. A. | | | 131.25 | | | |
| Kassay, E. J. | 960.00 | | 168.00 | | | 308.00 |
| Krobetzky, R.W. | 390.00 | | 63.00 | | | |
| Lander, James H. | 200.00 | | | | | |
| Langley, R. | 940.00 | | | | | |
| Lannon, N. J. | 240.00 | | 756.00 | | | 352.00 |
| Lena, M. | | | | | | 82.50 |
| Lind, T. E. | 440.00 | | 165.38 | | | 253.00 |
| Lio, P. R. | | | 136.50 | | 63.00 | |
| Madry, John Sr. | 2790.00 | | 252.00 | | | |
| Madry, John Jr. | | | 372.75 | | 126.00 | |
| Maier, R. | 440.00 | | 794.06 | | 162.75 | 84.00 |
| Maloney, F. | 162.50 | | | | | |
| Maloney, J. | 870.00 | | | | | |
| Maxwell, C. | | | 546.00 | | 126.00 | 352.00 |
| McConologue, D. | 645.00 | | 393.75 | | 189.00 | 44.00 |
| McDonald, W. | 40.00 | | | | | |
| Mercatante, T. | 1452.50 | | 63.00 | | | |
| Meszaros, J. | 1075.00 | | | | | |
| Michaels, E. | 40.00 | | 231.01 | | | |
| Noah, D. | 997.50 | | 469.88 | | 152.25 | 44.00 |

A-145
GOVERNMENT EXHIBIT 20: LIST OF EARNINGS BY POLICE OFFICERS

| <u>Policeman</u> | <u>1969 Tech- nicon</u> | <u>1970 Super- markets</u> | <u>1971 N.Y. Tele- phone</u> | <u>1971 Super- markets</u> | <u>1972 N.Y. Tele- phone</u> | <u>1972 Super- markets</u> |
|------------------|---------------------------------|------------------------------------|--------------------------------------|------------------------------------|--------------------------------------|------------------------------------|
| | | | 469.88 | | | 390.50 |
| Paige, W. | | | | | | |
| Pennell, J. | 1275.00 | | 530.26 | | 315.00 | |
| Perillo, M. | | | | | | 352.00 |
| Pindt, J. F. | 1410.00 | | 630.00 | | 378.00 | |
| Popp, E. H. | 1575.00 | | 99.75 | | | |
| Pracella, P. | | | | | 63.00 | |
| Preston, W. | | | 78.75 | | | |
| Proft, W. | | | 149.63 | | 26.25 | |
| Purdy, R. M. | 450.00 | | | | | |
| Randazzo, G. | 742.50 | | 315.00 | | 63.00 | 660.00 |
| Rasmussen, R. | 365.00 | | | | | |
| Robinson, D. | 80.00 | | 126.13 | | 89.25 | |
| Rohs, R. W. | 120.00 | | | | | |
| Sanseverino, A. | | | 483.00 | | 183.75 | |
| Santagate, J. | 400.00 | | | | | |
| Sanzo, J. | 2480.00 | | | | | |
| Sarcone, J. | 1090.00 | | 1047.38 | | 315.00 | 44.00 |
| Scanlon, B. M. | | | 698.25 | | 63.00 | 726.00 |
| Schachinger, J. | 400.00 | | 162.75 | | 63.00 | |
| Sharpe, R. | | | 120.75 | | 63.00 | |
| Singer, D. | 1435.00 | | | | | |
| Sinnott, E. | 120.00 | | | | | |
| Suter, J. | | | 593.25 | | 126.00 | |
| Tirella, C. | 755.00 | 30.00 | | | | 144.00 |
| Toog, S. | 1570.00 | | 635.25 | | 126.00 | |
| Ulrich, Howard | 25.00 | | | | | |
| Van Dorn, W. | 2535.00 | | 630.00 | | 504.00 | |
| Wafford, B. | 900.00 | | 648.38 | | | |
| Walsh, D. | 750.00 | | 677.25 | | | |

A-146
GOVERNMENT EXHIBIT 20: LIST OF EARNINGS BY POLICE OFFICERS

| <u>Policeman</u> | <u>1969 Tech- nicon</u> | <u>1970 Super- markets</u> | <u>1971 N.Y.Tele- phone</u> | <u>1971 Super- markets</u> | <u>1972 N.Y.Tele- phone</u> | <u>1972 Super- markets</u> |
|------------------|---------------------------------|------------------------------------|-------------------------------------|------------------------------------|-------------------------------------|------------------------------------|
| Wanderlingh, J. | | | 577.50 | | 430.50 | |
| Washington, S. | | | 320.25 | | 99.75 | |
| Westerman, F. | | | 63.00 | | | |
| Willard, R. A. | 930.00 | | | | | |
| Williams, A. | <u>345.00</u> | | | | | |
| | \$61,107.50 | 765.20 | 24,130.21 | 4,866.21 | 6,546.75 | 10,762.50 |

An examination of the miscellaneous expense vouchers for the New York Telephone Company further reveal that certain vouchers contain a signature purporting to be that of Robert Ercoli for the total amount of \$4,806.38 for dates in 1971, vouchers with the signature purporting to be that of Joseph Gorey for the total amount of \$4410.00 for dates in 1971, vouchers with the signature purporting to be that of Gennaro Randazzo for the total amount of \$2399.25 for dates in 1971, and vouchers with the signature purporting to be that of Gennaro Randazzo for the total amount of \$1953.00 for dates in 1972.

A-147
MEMORANDUM AND DECISION

ORIGINAL ✓

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-v-

ROBERT ERCOLI,

Defendant.

75 Cr. 1040-CLB

MEMORANDUM AND ORDER

45073

Brieant, J.

Following a jury verdict convicting him on Counts 1, 2 and 3 of this indictment, Robert Ercoli has made a timely motion for a judgment of acquittal.

Ercoli was convicted under Count 1 of this indictment of conspiracy to defraud the United States by denying to the Internal Revenue Service truthful and accurate information pertaining to the personal income of members of the Town of Greenburgh Police Department who held off-duty jobs. The remaining counts concerned violations of 18 U.S.C. §1623, discussed below.

Initially the indictment charged in Count 1 that the conspiracy included an unlawful agreement to violate the federal income tax laws. This portion of the indictment was stricken on defendant's motion because the proof did not sustain the allegation that it was part of the unlawful agreement that the conspirators would each file

SEP 13 4 00 PM '76
U.S. DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SEP 13 1976

A-148
MEMORANDUM AND DECISION

false and fraudulent federal personal income tax returns.

The evidence, viewed most favorably to the Government showed that this defendant and others had agreed to administer off-duty police jobs in a formal manner through defendant's office or bureau in the Police Department, for which he was to receive \$.25 per hour from the remuneration paid to the men working off-duty jobs. The purpose of this "cut" as it was called, was to cover Ercoli's expenses and recompense him for his services as such job administrator for the off-duty jobs.

The evidence showed that an agreed rate of pay for such jobs was determined at a Police Benevolent Association ("PBA") meeting, and that it was part of the conspiracy that payment be made in cash with no withholding statements or withholding of income tax. This is clearly shown by one resolution which provided in effect that if a job was not "off the books" or "cash," the hourly rate of pay would be \$.25 higher. Neither the Grand Jury nor the Government regarded the employers of the off-duty men as co-conspirators. The defendant on this motion now argues that they were indeed co-conspirators and that a conspiracy which included the employers, as well as the Chief, the PBA members and Ercoli was "inconsistent with the original indictment as amplified by the Bill of Particulars."

The existence and nature of the conspiracy was clearly shown by Grand Jury testimony and PBA minutes, made available to

A-149
MEMORANDUM AND DECISION

defendant prior to trial. That the proof, in defendant's view with which the Court agrees, shows a broader conspiracy than that charged, which also included the employers, is not a prejudicial variance. There was no surprise. Defendant waived any such variance. That the Government neither alleged in the indictment, which it proposed to the Grand Jury, or in the bill of particulars, that the employer corporations, or their representatives were co-conspirators is no basis for a judgment of acquittal. Its only relevance at trial concerned the fact that the responsible officers of the corporate employers had for the most part been granted immunity. It became clear to the jury that they may have been co-conspirators or criminally involved in the matter. These available facts were of importance to the jury only insofar as they pertained to credibility, bias or favor of the corporation witnesses.

The attack on the verdict insofar as concerns the counts which charge false declarations before the Grand Jury arise out of Ercoli's sworn testimony as to whether the \$.25 per hour "administrative fee" had been authorized prior to January 12, 1972. The Grand Jury charged in Count 2 that Ercoli knowingly testified falsely about the date of this adoption of an "administrative fee" by the PBA. All that survives the jury verdict is the question of whether the date when such approval was first obtained was material to any issue under inquiry by the Grand Jury.

A-150
MEMORANDUM AND DECISION

A fact is material to a Grand Jury investigation of generalized criminal conduct, where a truthful answer might reasonably lead to competent proof of federal criminality on the part of the witness or others. The date of the adoption of the "administrative fee" is such a fact, and under the broader standard of materiality applicable to the Grand Jury, is material as a matter of law.

As for Count 3, the fact claimed to be material was whether discussions relating to the hiring of policemen by the telephone company to service its installations in the Town of Greenburgh in the course of a strike, took place at the telephone company premises or at the Police Headquarters. There was sufficient evidence to show that the place of the meeting at which Ercoli negotiated the hiring of off-duty police by the telephone company as security guards during the strike was the telephone company premises at 10 County Center Road, and not the Police Headquarters, and that Ercoli testified knowingly, wilfully and in a false manner to the contrary.

Here again the location of the meeting will be found material if it is reasonably to be expected that a truthful answer would lead to competent evidence of crime. The place of the meeting is some evidence bearing on whether the PBA affirmatively sought this off-duty employment which, facially, at least, comprised the

A-151
MEMORANDUM AND DECISION

work of protecting property from riot and vandalism in the Town, which the Police Department should have done without charge, as part of its duty to the taxpayers generally, even if overtime work were necessitated.

If it appeared that by going to the telephone company building Ercoli had been actively soliciting "off-duty jobs," arguably within the scope of the official duties of the police, this might be regarded as an essential element in a course of criminal misconduct by somebody. On the other hand if the telephone company executives came to the Police Headquarters and made the request, the entire picture is changed; at least lay members of our Grand Jury might so regard it in dealing with those relatively intangible questions such as intent and wilfulness. That the solicitation was in fact initiated by the telephone company, and that the Court struck those questions and answers dealing with the question of who solicited on the ground that Ercoli's answers were truthful, does not mean that the place of the meeting is not material to the legitimate purposes of the entire Grand Jury inquiry. The materiality of a fact inquired about will not be circumscribed or limited merely because the Grand Jury had other information in its possession, earlier or at the same time, which made the inquiry cumulative or, tested by hindsight, insignificant, or trivial.

The motion is in all respects denied.

A-152
MEMORANDUM AND DECISION

So Ordered.

Dated: New York, New York
September 13, 1976

Charles L. Briant

CHARLES L. BRIANT
U. S. D. J.

BEST COPY AVAILABLE

A-153

JUDGMENT AND PROBATION/COMMITMENT ORDER

| | |
|--|---|
| United States District Court for Southern District of New York | |
| DEPENDANT Robert Ercoli | DOCKET NO. 75 Cr. 1040CLB |
| JUDGMENT AND PROBATION/COMMITMENT ORDER | |
| In the presence of the attorney for the government the defendant appeared in person on this date | MONTH 10 DAY 6 YEAR 75 |
| COUNSEL <input type="checkbox"/> WITHOUT COUNSEL <input checked="" type="checkbox"/> WITH COUNSEL | However, the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel. Andrew Lawler (Name of counsel) |
| PLEA <input type="checkbox"/> GUILTY, and the court being satisfied that there is a factual basis for the plea. <input type="checkbox"/> NOLO CONTENDERE <input checked="" type="checkbox"/> NOT GUILTY | There being a finding verdict of <input type="checkbox"/> NOT GUILTY. Defendant is discharged. <input checked="" type="checkbox"/> GUILTY. |
| FINDING & JUDGMENT | Defendant has been convicted as charged of the offense(s) of conspiracy to defraud the U.S. (Title 18, U.S. Code, §371); false statements to the Grand Jury. (Title 18, U.S. Code, §1623) |
| SENTENCE OR PROBATION ORDER | The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for the maximum period authorized by law (FIVE (5) YEARS) on counts 1, 2 and 3 and for study as described in 18, U.S.C. §4205(d), the results of such study to be furnished this Court within three (3) months, unless the Court grants further time not to exceed three (3) months, whereupon the defendant shall be returned to this Court and the sentence of imprisonment herein imposed shall be subject to modification in accordance with 18, U.S.C. §4205(c). |
| SPECIAL CONDITIONS OF PROBATION | sentence is stayed pending appeal. Defendant is continued on his own recognizance pending appeal. |
| ADDITIONAL CONDITIONS OF PROBATION | In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period. |
| COMMITMENT RECOMMENDATION | The court orders commitment to the custody of the Attorney General and recommends. |
| SIGNED BY <input checked="" type="checkbox"/> U.S. District Judge Charles L. Briant | MICROFILM OCT 08 1975 Charles L. Briant Date 10-6-76 |
| | U.S. DISTRICT COURT FILED OCT 6 1976 S. D. OF N. Y. |

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

ROBERT LA GRASSA, being duly sworn,
deposes and says that deponent is not a party to the action,
is over 18 years of age and resides at 62-20 60' RD
MARLBOROUGH, N.Y.

That on the 13 day of DECEMBER, 1976,
deponent personally served the within APPENDIX

upon the attorneys designated below who represent the
indicated parties in this action and at the addresses below
stated which are those that have been designated by said
attorneys for that purpose.

By leaving 1 true copies of same with a duly
authorized person at their designated office.

By depositing true copies of same enclosed
in a postpaid properly addressed wrapper, in the post office
or official depository under the exclusive care and custody
of the United States post office department within the State
of New York.

Names of attorneys served, together with the names
of the clients represented and the attorneys' designated
addresses.

THOMAS J. CAHILL
U.S. ATTORNEY FOR THE SOUTHERN DISTRICT OF NEW YORK
ATTORNEY FOR PLAINTIFF-APPELLEE
ONE ST. ANDREWS PLAZA
NEW YORK, N.Y. 10007

Robert La Grassa

Sworn to before me this

13th day of December, 1976 Michael de Santis

MICHAEL DE SANTIS
Notary Public, State of New York
No. 03-0930308
Qualified in Bronx County
Commission Expires March 30, 1977

72